

AN
INQUIRY
INTO THE NATURE OF THE
SOCIAL CONTRACT;
OR
PRINCIPLES OF POLITICAL RIGHT.

TRANSLATED FROM THE FRENCH OF
JOHN JAMES ROUSSEAU.

Federis aquas
Dicamus leges.

Ensis. XI.

LONDON:
PRINTED FOR G. G. J. AND J. ROBINSON,
PATERNOSTER-ROW.

M DCC LCI.



P R E F A C E

THE high honours which have been recently paid to the memory of Rousseau, by the National Assembly of France; avowedly from a persuasion that a treatise of his, entitled *Du Contrat Social*, had prepared the way for the Revolution which has lately taken place in that country, must naturally excite a desire in the minds of Englishmen, to be acquainted with a work, which could lay the foundation of so important an event. A translation is therefore offered to the public; in which care has been taken to give the sense of the author, in the plainest language; that all who choose to trace, in this treatise, the principles of the new system of French government, may do so, without that difficulty which is sometimes found in reading translations of philosophical works.

ADVERTISEMENT

PREFIXED BY THE AUTHOR TO THE FIRST EDITION.

8 JU 65

THIS little Treatise is extracted from a much more extensive work, undertaken without consulting my abilities, and hid aside long ago. Of the passages which could be selected from what was written, the following are the most considerable, and appear to me to be the least unworthy of being offered to the public; the rest is already destroyed.

CONTENTS.

BOOK THE FIRST.

CONTAINS an Inquiry into the true State of Nature to a State of Civilization; and what are the essential Conditions of the Social Compact.

CHAP. I.	<i>Subject of the First Book</i>	1
CHAP. II.	<i>Of the First Inequality</i>	5
CHAP. III.	<i>Of the Right of the Strongest</i>	12
CHAP. IV.	<i>Of Slavery</i>	16
CHAP. V.	<i>That we should always refer to the First Conditions</i>	29
CHAP. VI.	<i>Of the Social Compact</i>	34
CHAP. VII.	<i>Of the Sovereign Power</i>	42
CHAP. VIII.	<i>Of the Civil State</i>	48
CHAP. IX.	<i>Of real Property</i>	54

BOOK

C O N T E N T S.

BOOK THE SECOND

Contains a Treatise on Legislation.

CHAP. I.	<i>That the Sovereignty is inalienable</i>	61
CHAP. II.	<i>That the Sovereignty is indivisible</i>	65
CHAP. III.	<i>Whether the General Will can err</i>	71
CHAP. IV.	<i>Of the Limits of the Sovereign Power</i>	76
CHAP. V.	<i>Of the Right of Life and Death</i>	89
CHAP. VI.	<i>Of the Law</i>	96
CHAP. VII.	<i>Of the Legislature</i>	107
CHAP. VIII.	<i>Of the People</i>	121
CHAP. IX.	<i>Continuation</i>	127
CHAP. X.	<i>Continuation</i>	135
CHAP. XI.	<i>Of the different Systems of Legisla-</i> <i>tion</i>	145
CHAP. XII.	<i>Of the Division of Laws</i>	152

BOOK THE THIRD

Treats of Political Laws; that is, of the Form of
Government.

CHAP. I.	<i>Of Government in general</i>	158
CHAP. II.	<i>Of the Principle which constitutes the</i> <i>different Forms of Government</i>	175
CHAP. III.	<i>Division of Governments</i>	184
CHAP. IV.	<i>Of Democracy</i>	188
CHAP. V.	<i>Of Aristocracy</i>	194
CHAP. VI.	<i>Of Monarchy</i>	202
CHAP.		

C O N T E N T S.

CHAP. VII.	<i>Of mixed Governments</i>	—	217
CHAP. VIII.	<i>That every Form of Government would not be proper in every Country</i>		220
CHAP. IX.	<i>Of the Signs of a good Government</i>		236
CHAP. X.	<i>Of the Abuse of Government, and its Propensity to Degeneration</i>		240
CHAP. XI.	<i>Of the Death of the Body Politic</i>		249
CHAP. XII.	<i>How the Sovereign Authority is main- tained</i>	—	252
CHAP. XIII.	<i>Continuation</i>	—	255
CHAP. XIV.	<i>Continuation</i>	—	259
CHAP. XV.	<i>Of the Deputies or Representatives of the People</i>	—	262
CHAP. XVI.	<i>That the Institution of Government is not a Contract</i>	—	273
CHAP. XVII.	<i>Of the Institution of Government</i>		277
CHAP. XVIII.	<i>The Means of preventing the Usurpations of Government</i>	—	280

BOOK THE FOURTH.

In continuing to treat of Political Laws, the Means
of establishing the Constitution of a State are
pointed out.

CHAP. I.	<i>That the General Will cannot be de- stroyed</i>	—	286
CHAP. II.	<i>Of Suffrages</i>	—	293
CHAP. III.	<i>Of Elections</i>	—	301
			CHAP.

CONTENTS

CHAP. IV.	<i>Of the Roman Censura</i>	—	306
CHAP. V.	<i>Of the Tribuneship</i>	—	335
CHAP. VI.	<i>Of the Dictatorship</i>	—	340
CHAP. VII.	<i>Of the Censors</i>	—	349
CHAP. VIII.	<i>Of Civil Religion</i>	—	354
CHAP. IX.	<i>Conclusion</i>	—	376

8 JU 65

CHAP. I.	<i>Of the General Will</i>	—	280
CHAP. II.	<i>Of the Right of the Citizen</i>	—	285
CHAP. III.	<i>Of the Right of the Foreigner</i>	—	290
CHAP. IV.	<i>Of the Right of the Slave</i>	—	295

[3]

SOCIAL CONTRACT.

8 JUL 65

BOOK THE FIRST.

My design in this treatise is to enquire whether, taking men such as they are, and laws such as they may be made, it is not possible to establish some just and certain rule for the administration of a free state: and in the course of my enquiry I shall endeavour to unite what is just, with what policy pre-

scribes, that justice and utility may not be separated.

I shall enter on my enquiry without saying any thing about the importance of the subject: and if I am asked whether I am a prince or a lawgiver, that I write on politics, I shall answer that I am neither, and for that reason I am a political writer. If I were a prince or a lawgiver, I should not waste in theory the time which I ought to employ in practice: I would *act*, or I would *remain silent*.

Born a citizen of a free state, and, as such, a member of its sovereignty, however weak the influence of my voice may prove in the determination of public affairs, the right of voting on such

occa-

occasions imposes on me the duty of informing myself on the subject; and I am happy, whenever I meditate on different governments, to find that my researches always afford me new reason to admire that of my own country.

CHAP. I.

Subject of the First Book.

MAN is born free, and yet we see him every where in chains: and those who believe themselves the masters of others, cease not to be even greater slaves than the people they govern. How this happens I am ignorant; but, if I am asked what renders it legal, I believe

it may be in my power to resolve the question.

If I were only to consider force, and the effects of it, I should say that, when a nation is constrained to obey, and does obey, it does well; but whenever it can throw off its yoke, and does throw it off, it does better. The people may certainly use, for the recovery of their liberty, the same means that were employed to deprive them of it: it was either intended to be recovered, or not to be torn from them.

The social order is a sacred right which serves for the basis of all others: yet this right comes not from nature; it is founded on conventions. The question is, what those conventions are. But,

before

before I come to the point, I must establish the principles which I intend to proceed upon.

C H A P. II.

Of the First Societies.

THE earliest and the only natural societies were families; yet the children remained attached to the father no longer than they had occasion for his protection. As soon as that occasion ceased, the bond of nature was dissolved; and the child exempt from the obedience he owed the father, and the father from the duties he owed the child, entered equally into

a state of independence. If they continued to reside together, it was not in consequence of a natural, but a voluntary union; and the family was maintained by a convention.

This common liberty is a consequence resulting from the nature of man. His first law is that of self preservation, his first cares those which he owes to himself; and as soon as he has attained the age of reason, he being the only judge of the means proper to preserve him, becomes at once his own master.

It appears that domestic societies were the first models on which political societies were formed. The chief represents the father of the family, the children the people; and being all born equal, and
all

all free, they in either case only alienate their natural liberty in order to obtain what is more necessary to their welfare. All the difference between the two societies is, that, in the family, the gratification which paternal tenderness derives from a consciousness of benefiting those who are the objects of it, makes a full amends to the father for the care he bestows on the children ; while, in a state, the pleasure of commanding supplies the place of that love which the chief does not feel for the people.

GROTIUS denies that all human power is established for the benefit of those who are governed ; and he instances slavery in proof of his assertion : but his constant manner of reasoning is, to establish the

right by the *est.* A more satisfactory mode might be employed, but none more favourable to tyrants.

It is doubtful, according to GREGORIUS, whether the whole human race belong to about one hundred men, or this hundred men to the human race; and he appears throughout his book to incline to the former opinion. This is also the idea of Hobbs: so that, according to them, mankind is divided into herds like cattle; each herd having its master, who protects in order to devour it.

As the herdsmen is of a nature superior to that of his cattle, so the herdsmen of men are of a nature superior to their people. So reasoned, according to PHILLO's account, the emperor CALI-

GULA;

CALIGULA; who concluded very justly, from analogy, that either kings were gods, or men were beasts.

The reasoning of CALIGULA comes just to the same point as that of GROTIUS and HOBBES; and ARISTOTLE said, before any of them, that men are not naturally equal, but that some are born for slavery and others for freedom.

ARISTOTLE, though a very great and profound reasoner, has in this instance mistaken the effect for the cause. Nothing is more certain than that all men who are born in slavery, are born for slavery; and it is equally true that slaves become so debased by their chains, as to lose all the desire of breaking from them; and they love their servitude, even as the brute

panions of ULYSSES loved their brutishness. But if there are some who are slaves by nature, the reason is, that men were at first made slaves against nature. Force made the first slaves; and slavery, by degrading and corrupting its victims, perpetuated their bondage.

I have not said any thing of *king* ADAM, or *emperor* NOAH, the father of three great monarchs, who parted the universe amongst them, like the children of SATURN, whom they are by many supposed to be. I expect to be applauded for this moderation; because, as I am descended in a direct line from one of these princes, and perhaps from the eldest branch, who can tell whether, in the verification of titles, I might not find myself

self one of the legitimate kings of human nature ? However it be, we can discover nothing but that ADAM was sovereign of the world, as ROBINSON CRUSOE was of his island, because he was its only inhabitant : and the happiest circumstance attending the empire was, that the monarch was secure in his throne ; having nothing to apprehend from rebellions, wars, or conspiracies.

C H A P. III.

Of the Right of the Strongest.

THE strongest are still never sufficiently strong to ensure them the continual mastership, unless they find means of transforming force into right, and obedience into duty.

From the right of the strongest, right takes an ironical appearance, and is rarely established as a principle. But how shall we explain the term? Force is a physical power, and I do not see what morality can result from its effects. To yield to force, is an act of necessity, not
of

of inclination; or it is at best only an act of prudence. In what sense then can it be an act of duty?

Let us suppose for a moment the existence of this pretended right. I see nothing that can arise from it but inexplicable nonsense: for if we admit that force constitutes right, the effect changes with the cause; and all force which overcomes the former possessor, succeeds to its right: as soon as men can disobey with impunity, they can lawfully; and because the strongest has always reason on his side, strength is the only thing men should seek to acquire. But what sort of a right is that which perishes with the force that gave it existence? If it is necessary to obey by force, there can be

no occasion to obey from duty; and when force is no more, all obligation ceases with it: so that this right of the strongest adds nothing to the right of force, but is indeed an unmeaning term.

If in saying, *let us obey the powerful*, they mean to say, *let us yield to force*, the precept is good; but it is superfluous, for it never is or can be violated.

All power, we are told, comes from God. I grant it does; but all diseases likewise come from the same hand, and yet who ever forbid us to call in a physician? If a robber surprises me in the dark recess of a wood, is it necessary that I should not only give him my purse, when forced to do so; but am I

in conscience obliged to give it him, though I should be in a situation to subdue or escape from him? The fact is, the pistol which he holds is his power.

We must grant, therefore, that force does not constitute right, and that obedience is only due to the legitimate powers. Thus every thing refers to my first question.

C H A P. IV.

Of Slavery.

SINCE no man has any natural authority over his equals, and since force produces no right to any, all legal authority amongst men must be established on the basis of conventions.

If an individual (says GROTIUS) can alienate his liberty, and become the slave of a master, why may not a whole people alienate theirs, and become the subjects of a king? There are some equivocal words in this sentence, which require an explanation; but at present I will

con-

confine myself to the word *alienate*. To alienate, is to give, or sell : but a man who becomes the slave of another, cannot *give*, he must *sell* himself, at least for a subsistence. But how can a people sell themselves? since, so far from a king furnishing his subjects with subsistence, he draws his own from them; and, according to RABELAIS, a king does not subsist upon a little. Do subjects therefore give their persons on condition that the prince will condescend to accept their property also? I see nothing, after such a gratuity, that there remains for them to preserve.

We are told that a despot ensures civil tranquillity to his subjects. Be it so; but still what do his subjects gain if the

wars which his ambition draws them into, if his insatiable avarice, and the vexations of his administration, desolate the country even more than civil dissensions? What do they gain if this very tranquillity is one of their miseries? We find tranquillity also in dungeons; but are the wretches there contented with enjoying it? The Greeks enjoyed the same kind of tranquillity while they were shut up in the cave of the Cyclop, and expecting every moment that it would be their turn to be devoured.

To say that a man gives himself gratuitously, is absurd and incomprehensible; such an act would in itself be illegal and void, because the person who performed it could not be in his proper senses.

senses. To say the same of a whole nation, is to suppose the multitude are all mad; but still, folly would not confer the right so vainly contended for.

If each individual could alienate himself, he could not alienate his descendants; for being born men, and free, their liberty is their own, and no person can dispose of it but themselves. Before they arrive at the age of reason, the father may, in his children's name, stipulate conditions for their preservation and welfare; but not give them up irrecoverably, and unconditionally: for such a gift would be contrary to the designs of nature, and exceed the limits of paternal authority. It would therefore be necessary, in order to make an arbitrary govern-

ment legal, that each generation should be at liberty to admit or reject it : but then such a government would not be arbitrary.

To renounce our liberty, is to renounce our quality of man, and with it all the rights and duties of humanity ; and no adequate compensation can possibly be made for such a sacrifice, as it is in itself incompatible with the nature of man ; whose actions, when once he is deprived of his free will, must be destitute of all morality. In a word, a convention which stipulates for absolute authority on one side, and unlimited obedience on the other, must always be considered as vain and contradictory. Neither is it clear that there can be any engagement

ment

ment made with a person from whom every thing may be justly required; and does not the single circumstance of there being no equivalent given, and no liberty of change allowed, annul the act of course? For what right can my slave have that is not mine, since every thing that he has belongs to me? and, his right being mine, to speak of the right of me against myself, is absolute nonsense.

GROTIUS and others derive from war another origin for this pretended right of slavery. The victor having, according to them, a right to kill the vanquished, the latter may purchase his life at the expence of his liberty: a convention which is so much the more legal, as it tends to the benefit of both parties.

But it is clear that this pretended right of killing the vanquished, results not in any manner from the state of war; because, while men remained in their primitive independence, there was not sufficient intercourse between them to constitute either peace or war; and they are not naturally enemies. It is a concurrence of things, and not of men, that occasions war; and the state of warfare cannot rise out of simple personal concerns, or exist between man and man, either in a state of nature, where there is no settled property; or in a civil state, where all are under the authority of the laws.

Private combats, duels, and rencontres, are acts which do not constitute a
state

state of war : and with regard to the petty wars authorized by the establishments of Louis IX. of France, they were abuses of the feudal government ; a system so completely absurd, that it contradicted every principle of natural right, and of sound policy.

War is therefore not a concern between man and man, but between state and state, in which individuals are only enemies accidentally ; not as men, or as citizens, but as soldiers : not as members of a country, but as its defenders. In fine, states can only have other states, and not individuals, for enemies.

This principle is conformable to the established maxims of all times, and the invariable practice of all politic people.

Declarations of war are not so much to inform the powers, as their subjects. The stranger, be it a monarch, a private individual, or a whole nation, that robs, kills, or unlawfully detains the subjects of another power, without previously declaring war against that power, is not an enemy, but a robber. Even in the time of war, a just prince, while he carries away as legal spoil whatever he can seize upon in an enemy's country that belongs to the public, respects and spares the persons and property of private people, because he respects the right by which he holds his own possessions.

The end of war being to subdue a hostile state, the army of one nation has a right to kill the defenders of the other nation

nation while they have arms in their hands: but as soon as they lay them down, and surrender themselves, they cease to be enemies, or the instruments of enemies; they become simply men, and the victors have no longer any right over their lives.

Sometimes it may be possible for one state to destroy another state without losing one of its own members: but war does not give a right to do any thing beyond what is absolutely necessary to its end, that is, to the subduing of a hostile power. These are not the principles of GROTIVS, neither are they adopted on the authority of the poets; but they are derived from the nature of things, and founded on reason.

With

With regard to the right of conquest, it has no other foundation than the law of the strongest arm. If war gives not to conquerors the right of massacring the conquered, that right (which does not exist) cannot prove a foundation for the right of enslaving them *. Men have no right to kill the enemy, but at the time when it is impossible to enslave them (when they have their arms in their hands): the right of enslaving cannot of course be derived from the right of killing. It would therefore be an iniquitous barter to make them purchase, at the price of their liberty, that life over which the

* See the arguments of GROTIUS and others on this subject in Chap. IV.

conquerors had no longer any right. In establishing the right of life and death on that of slavery, and of slavery on that of life and death, is it not clear that we fall into a vicious track?

But supposing that this terrible right of massacring a whole nation did exist; the slaves made in war, or a conquered people, could be bound by no one obligation to their master, and would only obey him while they were compelled by force to do so. In taking his service as an equivalent for sparing his life, the victor confers no favour on the man he has vanquished; for, instead of killing him (from whence he could derive no advantage), he spares him to linger out a wretched existence, that he may reap
the

the fruits of his labour. Therefore as the conqueror has acquired, by saving the life of the conquered, no other authority over him to second that of force, the state of war subsists between them, as formerly: even their union is such, in fact; and, while the rights of war are exercised, no treaty of peace can be supposed to exist. I shall be told perhaps that they have made a convention. Be it so: but this convention is so far from terminating their warfare, that it supposes the continuance of it.

Thus, in whatever light we view things, the right of slavery is found to be null; not only because it is illegal, but because it can have no existence; for the terms *slavery* and *right* contradict and

exclude each other : and be it from man to man, or from a man to a nation, it would be equally nonsensical to say—I *make a covenant with you entirely at your expence, and for my benefit ; I will observe it as far as my inclination leads me, and you shall observe it as far as I please.*

CHAP. V.

That we should always refer to the First Convention.

HAD I granted all which I have refuted, the favourers of despotism would not have found their cause advanced by it. There is a wide difference between
 sub-

subduing a multitude, and governing a society.

When uncivilized* men are successively subjugated by an individual, whatever number there may be of them, they appear to me only as a master and his slaves; I cannot regard them as a people and their chief. They are, if you please, an *aggregation*, but they are not an *association*; for there is neither public property, or a political body, amongst them.

* The term *uncivilized* is here applied to men who have not yet entered into the social compact, as described in the following chapter; and who of course are not in the civil state, whatever may be the refinement of their minds or their manners. Rousseau styles them *hommes épars*.

A man may have enslaved half the world, and yet continue a private individual, if his interest is separate from the general interest, and confined to himself alone. When such a man falls, his empire remains unconnected, and without any bond of union; as an oak dissolves, and becomes a mass of ashes, when consumed by fire.

“A people (says GROTIUS) can give themselves to a king.” According to Grotius, then, they are a people before they give themselves to the king. The donation itself is a civil act, and supposes a public consultation by an assembly of the people: it will therefore be necessary, before we examine the act by which they elected a king, to enquire
into

into that by which they became a people : for that act, being anterior to the other, is the true foundation of the society.

In fact, if there was no prior convention, where would be (unless the election of a chief was unanimous) the obligation which should bind the lesser number to submit to the choice of the greater ? And from whence would a hundred men, who wished to submit to a master, derive the right of binding by their votes ten other men who were not disposed to acknowledge any chief ? The law which gives a majority of suffrages the power of deciding for the whole body, can only be established by a convention, and proves that there must have

have been at some former period a unanimous will.

CHAP. VI.

Of the Social Compact.

WE will suppose that men in a state of nature are arrived at that crisis, when the strength of each individual is insufficient to defend him from the attacks he is subject to. This primitive state can therefore subsist no longer; and the human race must perish, unless they change their manner of life.

As men cannot create for themselves new forces, but merely unite and direct those which already exist, the only means

D

they

they can employ for their preservation is to form by aggregation an assemblage of forces that may be able to resist all assaults, be put in motion as one body, and act in concert upon all occasions.

This assemblage of forces must be produced by the concurrence of many : and as the force and the liberty of a man are the chief instruments of his preservation, how can he engage them without danger, and without neglecting the care which is due to himself ? This doubt, which leads directly to my subject, may be expressed in these words :

“ Where shall we find a form of association which will defend and protect
 “ with the whole aggregate force the
 “ person and the property of each individual ;

“vidual; and by which every person,
 “while united with ALL, shall obey only
 “HIMSELF, and remain as free as be-
 “fore the union?” Such is the funda-
 mental problem, of which the Social
 Contract gives the solution.

The articles of this contract are so un-
 alterably fixed by the nature of the act,
 that the least modification renders them
 vain and of no effect. They are the same
 every where, and are every where under-
 stood and admitted, even though they
 may never have been formally announ-
 ced: so that, when once the social pact
 is violated in any instance, all the obli-
 gations it created cease; and each indi-
 vidual is restored to his original rights,
 and resumes his native liberty, as the

consequence of losing that conventional liberty for which he exchanged them.

All the articles of the social contract will, when clearly understood, be found reducible to this single point—THE TOTAL ALIENATION OF EACH ASSOCIATE, AND ALL HIS RIGHTS, TO THE WHOLE COMMUNITY. For every individual gives himself up entirely—the condition of every person is alike; and being so, it would not be the interest of any one to render himself offensive to others.

Nay, more than this—the alienation is made without any reserve; the union is as complete as it can be, and no associate has a claim to any thing: for if any individual was to retain rights not enjoyed
in

in general by all, as there would be no common superior to decide between him and the public, each person being in some points his own proper judge, would soon pretend to be so in every thing; and thus would the state of nature be revived, and the association become tyrannical or be annihilated.

In fine, each person gives himself to ALL, but not to any INDIVIDUAL: and as there is no one associate over whom the same right is not acquired which is ceded to him by others, each gains an equivalent for what he loses, and finds his force increased for preserving that which he possesses.

If, therefore, we exclude from the social compact all that is not essentially

necessary, we shall find it reduced to the following terms:

“ We each of us place, in common,
 “ his person, and all his power, under
 “ the supreme direction of the general
 “ will; and we receive into the body
 “ each member as an indivisible part of
 “ the whole.”

From that moment, instead of so many separate persons as there are contractors, this act of association produces a moral collective body, composed of as many members as there are voices in the assembly; which from this act receives its unity, its common self, its life, and its will. This public person, which is thus formed by the union of all the private persons, took formerly the name of

*city**, and now takes that of *republic* or *body politic*. It is called by its members

state

*) The true sense of this word is almost entirely lost amongst the moderns. The name of *city* is now generally used to signify a corporate town, and that of *citizen* applied to a burgher of such a corporation; Men do not seem to know that *houses* make a *town*, and *citizens* a *city*. The Carthaginians once paid dear for a mistake of this kind.

I have never seen it mentioned that the title of *civilis* was ever given to the subjects of any prince; not even to the *Macedonians* formerly, or to the English at present, although their government approaches nearer to a free one than that of any other people. The French alone use the name of *citizen* familiarly to all, because they have no true idea of it, as appears by their dictionaries: and without knowing its meaning they are in danger of falling into the crime of *leze-majesté*, by usurping the title which

State when it is passive, and *sovereign* when in activity: and whenever it is spoken of with other bodies of a similar kind, it is denominated *power*. The associates take collectively the name of *people*, and separately that of *citizens*, as participating the sovereign authority:

they have no pretension to. The word *citizen* with them means a power, and not a right: and BODIN made a very gross mistake, when, in speaking of *citizens* and *burghesses*, he mistook the one for the other. M. D'ALEMBERT was better acquainted with the meaning of these terms, and under the article *Geneve* he has very properly marked the difference between the four orders of men (indeed I may say five, by including the foreigners) which are found there; and of which, two orders only compose the republic. No other French author that I know of has comprehended the true sense of the word *citizen*.

they

they

they are also styled *subjects*, because they are subjected to the laws. But these terms are frequently confounded, and used one for the other; and a man must understand them well to distinguish when they are properly employed.

CHAPTER VII.

Of the Sovereign Power.

IT appears from this form that the act of association contains a reciprocal engagement between the public and individuals; and that each individual contracting as it were with himself, is engaged under a double character; that is, as a part of the *sovereign power* engaging

gaging with individuals, and as a member of the *state* entering into a compact with the *sovereign power*. But we cannot apply here the maxim of civil right, that no person is bound by any engagement which he makes with himself; for there is a material difference between an obligation contracted towards *one's self* individually, and towards a collective body of which *one's self* constitutes a part.

It is necessary to observe here, that the will of the public, expressed by a majority of votes, which can enforce obedience from the subjects to the sovereign power, in consequence of the double character under which the members of that body appear, cannot bind the
sove-

reign power to itself; and that it is against the nature of the body politic for the sovereign power to impose any one law which it cannot alter. Were they to consider themselves as acting under one character only, they would be in the situation of individuals forming each a contract with himself: but this is not the case; and therefore there can be no fundamental obligatory law established for the body of the people, not even the social contract. But this is of little moment, as that body could not very well engage itself to others in any manner which would not derogate from the contract. With respect to foreigners, it becomes a single being, an individual only.

But

But the body politic, or sovereign power, which derives its existence from the sacredness of the contract, can never bind itself, even towards others, in any thing that would derogate from the original act; such as alienating any portion of itself, or submitting to another sovereign: for by violating the contract its own existence would be at once annihilated; and by nothing nothing can be performed.

As soon as the multitude is thus united in one body, you cannot offend one of its members without attacking the whole; much less can you offend the whole without incurring the resentment of all the members. Thus duty and interest equally oblige the two contracting parties

parties to lend their mutual aid to each other; and the same men must endeavour to unite under this double character all the advantages which attend it.

The sovereign power being formed only of the individuals which compose it, neither has, or can have, any interest contrary to theirs; consequently the sovereign power requires no guarantee towards its subjects, because it is impossible that the body should seek to injure all its members: and we shall see presently that it can do no injury to any individual. The sovereign power, by its nature, must, while it exists, be every thing it ought to be: but it is not so with subjects towards the sovereign power; to which, notwithstanding the

the common interest subsisting between them, there is nothing to answer for the performance of their engagements, if some means is not found of ensuring their fidelity.

In fact, each individual may, as a man, have a private will, dissimilar or contrary to the general will which he has as a citizen. His own particular interest may dictate to him very differently from the common interest; his mind, naturally and absolutely independent, may regard what he owes to the common cause as a gratuitous contribution, the omission of which would be less injurious to others than the payment would be burthensome to himself; and considering the moral person which constitutes

tutes the state as a creature of the imagination, because it is not a man, he may wish to enjoy the rights of a citizen, without being disposed to fulfil the duties of a subject: an injustice which would in its progress cause the ruin of the body politic.

In order therefore to prevent the social compact from becoming a vain form, it tacitly comprehends this engagement, which alone can give effect to the others—That whoever refuses to obey the general will, shall be compelled to it by the whole body, which is in fact only forcing him to be free; for this is the condition, which guarantees his absolute personal independence to every citizen of the country: a condition which gives

motion

motion and effect to the political machine; which alone renders all civil engagements legal; and without which they would be absurd, tyrannical, and subject to the most enormous abuses.

C H A P. VIII.

Of the Civil State.

THE passing from a state of nature to a civil state, produces in man a very remarkable change, by substituting justice for instinct, and giving to his actions a moral character which they wanted before.

It is at the moment of that transition that the voice of duty succeeds to physical impulse; and a sense of what is right, to

the

the incitements of appetite. The man who had till then regarded none but himself, perceives that he must act on other principles, and learns to consult his reason before he listens to his propensities.

Although he is deprived in this new state of many advantages which he enjoyed from nature, he gains others of equal consequence. His faculties unfold themselves by being exercised; his ideas are extended; his sentiments exalted; and his whole mind becomes so enlarged and refined, that if, by abusing his new condition, he sometimes degrades it even below that from which he emerged, he ought still to bless, without ceasing, the happy moment that snatched him for

E

ever

ever from it, and transformed him from a circumscribed and stupid animal to a free intelligent being : in a word, to a man.

In order to draw a balance between the advantages and disadvantages attending his new situation, let us state them in such a manner, that they may be easily compared.

A man loses by the social contract his natural liberty, and an unlimited right to all which tempts him, and which he can obtain. In return he acquires civil liberty, and a just right to all he possesses.

That we may not be deceived in the value of these compensations, we must distinguish natural liberty, which knows

no bounds but the power of the individual, from civil liberty, which is limited by the general will: and between that possession which is only the effect of force, or of first occupancy, from that property which must be founded on a positive title.

We may add to the other acquisitions of the civil state, that of moral liberty, which alone renders a man master of himself: for it is slavery to be under the impulse of appetite; and freedom to obey the laws. But I have already said too much on this head: and the philosophical sense of the word liberty is not at present my subject.

C H A P. IX.

Of real Property.

EACH member of a community, at the moment of its formation, gives up to the public, himself and all his forces, of which his property forms a part. That property however does not change its nature, when it changes its master, and falls into the hands of the sovereign power; but as the forces of the City are infinitely greater than those of an individual, it is better secured when it becomes a public possession: yet, the title to it is not rendered more legal with respect to foreigners: as to the members themselves, the state is made master of
their

their property by the social contract, which with them serves for the basis of all rights; but with regard to other powers, it claims only under the title of first occupancy, which it derives from individuals,

The right of the first occupier, though more substantial than that of the strongest arm, does not become a real right, until after the right of property is established.

All men have a natural right to whatever is necessary for them; but the act which renders a man the positive proprietor of any property, excludes all others from possessing it. This being accomplished, the possessor must confine himself to what is thus made his own, and he can claim no right beyond it: and by this

means the title of the first occupant, so weak in a state of nature, is respected in civil societies.

The following conditions are in general necessary to give validity to the claim founded on first occupancy in any domain whatever.

In the first place, the land must not be inhabited by any person.

Secondly, the party must not occupy more land than is sufficient to supply him with subsistence.

Thirdly, he must take possession not by vain ceremonies, but by labour and cultivation; as they are the only proofs of a man's being a proprietor, which, in default of a legal title, deserve to be respected by others.

Is not the thus granting the right of first occupancy to want and to labour, extending it as far as it will go? Ought not the right to have some bounds assigned it? Is it sufficient to set our foot on a common domain, and pretend from thence a right to possess it? Is there nothing necessary, but sufficient force to drive out at once the inhabitants of a country, in order to deprive them of their right of ever returning thither? And how can a man, or a people, overrun an immense territory, and prevent all other human beings from participating it without being guilty of a criminal usurpation, since they deprive by that means the rest of mankind of a place

of residence, and of the aliments which nature gave in common to all?

When NUNEZ BALBOA took possession, on the shores of the South Sea, of that ocean, and of all South America, in the name of the Crown of Castile, was that act sufficient to dispossess the inhabitants of the country, and exclude all the princes of the world from settling there?

At this rate these ceremonies would have been multiplied extravagantly, and his Catholic majesty might at one stroke have taken possession of the whole universe without going out of his closet. He must indeed have cut off from his empire what had been previously occupied by other princes.

We see how the lands of private persons,

sons, contiguous and united, become the public territory; and how the right of sovereignty, extending over the subjects who occupy the lands, becomes in time real and personal; by which the occupiers are rendered entirely dependent; and their own force made the guarantee of their fidelity: an advantage which does not seem to have been perceived by ancient monarchs, who, styling themselves kings of the Persians, the Scythians, or the Macedonians, appear to have regarded themselves as the chiefs of men, rather than as masters of the country. Those of the present day usually call themselves kings of France, Spain, England, &c. and in thus holding the country, they are sure to hold its inhabitants.

The

The most extraordinary circumstance attending this alienation is, that so far from *accepting* the property of individuals, the community *seizes* upon it; but it is only to ensure the subject the legal possession;—to change usurpation into a true right; and enjoyment into property.

By this means, the possessors being considered as depositories of the public property, their rights are respected by all the members of the state, and protected with all their force against strangers. So that by a resignation, advantageous to the public, and still more so to the resigners, they may be justly said to have acquired all that they gave up: a paradox which will be easily explained, by distinguishing, as I shall do hereafter, the difference

ence

ence between the right which the sovereign power, and the proprietors, have in the same property.

It may so happen that men begin to associate before they have any possessions; and that spreading afterwards over a country sufficient for them all, they may either enjoy it in common, or part it between them equally, or in such proportions as the sovereign power shall direct. In whatever manner the acquisition is made, the right which each individual has over his own property, is always subordinate to the right which the community has over all; without which there would be no solidity in the social bond, or any real force in the sovereign power.

I shall

I shall conclude this chapter and book with a remark which must serve for the basis of the whole social system: it is, that so far from destroying the natural equality of mankind, the fundamental compact substitutes a moral and legal equality, instead of that physical inequality which nature placed amongst men; and that let men be ever so unequal in strength or in genius, they are all equalized by the rights of the convention*.

* Under bad governments this equality is but an illusive appearance, which only serves to keep the poor in misery, and support the rich in their usurpations. In fact, laws are always useless to those who have abundance, and injurious to those who have nothing: from whence it follows, that the social state is only advantageous to men when every individual has some property, and no one has too much.

END OF THE FIRST BOOK.

OF THE
SOCIAL CONTRACT;
OR
PRINCIPLES OF POLITICAL RIGHT.

BOOK THE SECOND.

CHAP. I.

That the Sovereignty is inalienable.

THE first and most important consequence of the principles already established is, that the general will can only direct the forces of the state agreeably to the end of its institution, which is the general good : for if the clashing of pri-

vate

vate interest has rendered the establishing of societies necessary, the accordance of the same interests has made such establishments possible. It is this common agreement between the different interests that forms the social bond ; and if there was not some point in which they all unanimously centered, no societies could exist : for they are formed and maintained by this common interest, and by it alone they must be governed. I say, therefore, that the sovereignty being no more than the exercise of the General Will, can never alienate itself ; and that the sovereign, which is only a collective being, cannot be represented but by itself. The *power* may be transmitted, but not the *will*.

It

It is impossible that the will of an individual should accord in every point with the general will ; it is at least impossible that such agreement should be regular and lasting ; for the will of the individual is naturally inclined to preferences, and the general will to strict impartiality. It would be utterly impossible to engage for the continuance of this agreement of wills, even if we were to see it always exist ; because that existence must be owing to chance alone, and therefore could not be depended on. The sovereign power may say, “ my will at present agrees with the will of such a man, or at least with what he declares to be his will ; ” but it cannot say, “ our wills shall likewise agree to-morrow ; ” as
it

it would be absurd to think of binding the will for the future, since it is impossible for any will to consent to what might be injurious to the being from whom the will proceeds. If, therefore, a people promise unconditionally to obey, the act of making such a promise dissolves their existence, and they lose their quality of a people; for at the moment that there is a *master*, there is no longer a *sovereign*; and the body politic is destroyed of course.

I do not say that the orders of Chiefs may not pass for the general will, whilst the sovereign power, being free to oppose them, does not do so. In such cases we must presume, from their silence, that the people yield their consent. But

I shall

I shall explain this more at large presently.

CHAP. II.

That the Sovereignty is indivisible.

FOR the same reason that the sovereignty is inalienable, it is indivisible.

For the will is general*, or it is not; it is either the will of the whole body of the people, or only of a part. In the first case, this declared will is an act of the sovereign power, and becomes a law: in the second, it is but a private will,

* To make the will general, it is not always necessary that it should be unanimous; but it is indispensably necessary that the vote of every citizen should be taken, and then a majority of suffrages constitutes the general will.

F

or

or an act of the magistracy, and is at most but a decree.

Politicians not being able to divide the principle of the sovereignty, they have divided its object : into force and will ; legislative power and executive power ; the right of levying taxes, of administering justice, and making war ; the internal government of the kingdom, and the power of treating with foreigners. But by sometimes confounding all these parts, and sometimes separating them, they make of the sovereign power a fantastical being formed of relative parts ; just like a man, composed from many bodies ; one of which should lend eyes, another arms, another legs, but nothing more.

The mountebanks of Japan are said

to

to dismember an infant in the sight of the spectators; throw its limbs one after another into the air, and causing them to unite again, make the child come down alive and whole. The tricks of our political jugglers are very similar to this piece of Indian legerdemain; for after dismembering the social body by a *feight* worthy of the black art, they bring its parts together again, nobody knows how.

This error arises from our not having formed exact ideas of the sovereign authority; and from our taking for parts of that authority what are only its emanations. For example, the acts of declaring war and making peace are considered as acts of the sovereignty, when in fact they are not so; because neither of

these acts is a law, but only the application of a law; or an act which determines a case of law, as we shall clearly perceive when the idea attached to the word *law* is fixt.

By tracing in the same manner the other divisions, we should find, that whenever we suppose the sovereignty divided we deceive ourselves; that the rights which we take for a part of that sovereignty are all subordinate to it, and always suppose a supreme will which is carried into execution by the exercise of those rights.

It is impossible to express how greatly this want of an exact knowledge of the sovereign power has obscured the arguments and conclusions of political writers, when they have attempted to decide on
the

the respective rights of kings and people; even though they proceeded by the principles which they have themselves laid down. Every person may see in the third and fourth chapters of the first book of GROTIUS, how that learned man, and his translator BARBEYRAC, have entangled and embarrassed themselves in their sophisms. It is there evident that they were fearful of saying too much, or of not saying enough to answer their designs, and apprehensive of making those interests clash which they wished to conciliate.

GROTIUS, discontented with his own country, took refuge in France; and endeavouring to make his court to LOUIS XIII. to whom his book is dedicated, he has spared no pains to despoil the peo-

ple of all their rights, and transfer them to their kings, in the most artful manner. This was also the design of BARBEYRAC, who dedicated his translation of GROTIUS to GEORGE I. king of England. But unfortunately the expulsion of JAMES II. which he calls *abdication*, obliged him to proceed very cautiously, and prevaricate, and shuffle, that he might avoid making king WILLIAM appear an usurper.

If these writers had adopted true principles, all their difficulties would have been removed, and they must have gained universal reverence: but the task of speaking truth, and recommending themselves to no favour but that of the People, would have been to them a vexatious one;

one; for truth does not lead to fortune;
and the people have neither embassies,
places, or pensions to bestow.

C H A P. III.

Whether the General Will can err.

IT follows from what has been said,
that the general will is always right,
and tends always to the public advantage;
but it does not follow that the resolutions
of the people have always the same rectitude.
Their will always seeks the public good,
but it does not always perceive how it is to be attained.
The people are never corrupted, but they are
often deceived; and under the influ-

ence of deception the public will may err.

There is frequently much difference between the *will of all* and the *general will*. The latter regards only the common interest; the former regards private interest, and is indeed but a collection of the wills of individuals: but remove from these the wills that oppose each other, and then the general will remains*.

If,

* "Each interest" (says M. d'A——, author of a Treatise on the Interests of France with her Neighbours) "has its different principles. The agreement of two private interests form an opposition to a third." He might have added that the agreement of all these interests is produced by their opposing each other.

If

If, when a People sufficiently informed deliberate, there was to be no communication between them, from a great number of trifling differences the general will would always result, and their resolutions be always good. But when cabals and partial associations are formed at the expence of the public, the wills of such meetings, though *general* with regard to the agreement of their members, are *private* with regard to the state; and it can be said no longer, “that there are as many voters as men,” but, as many as there are associations: by this means the

If there were not different interests, we should scarcely perceive the common interest, which never finds any opposer; every thing would go on regularly of itself, and politics be no longer a science.

dis-

differences being less numerous, they produce a result less general.

In fine, when one of these associations becomes so large that it prevails over all the rest, its will domineers; and you have no longer, as the result of your public deliberations, the sum of many opinions dissenting in a small degree from each other; but that of one great dictating dissentient. From that moment there is no more a general will, but the predominating opinion is that of an individual. It is therefore of the utmost importance for obtaining the real *will of the public*, that no partial associations should be formed in a state; and that every citizen should speak his opinion entirely from himself.

self*. Such was the unique and sublime instruction given by the great LYCURGUS to the Spartans,

* Vera cosa è (dit Machiavel) che alcuni divisioni nuocono alle Republiche, e alcune giovano: quelle nuocono, che sono dalle sette e da partigiani accompagnate: quelle giovano, che senza sette, senza partigiani si mantengono. Non potendo adunque provvedere un fondatore d'una repubblica che non fiano inimicizie in quella, hà da provveder al meno che non vi fiano sette.

Hist. Florent. l. vii.

" Divisions (says Machiavel) sometimes injure
 " and sometimes serve a state. The *injury* is done
 " by cabals and factions; the *service* by a party
 " which maintains itself without cabals or faction.
 " Since therefore it is impossible for the founder
 " of a republic to provide against enmities, he must
 " make the best provision he can against factions."

When

When there are partial affociations, it is politic to multiply their number, that they may be all kept on an equality. This method was pursued by SOLON, NUMA and SERVIUS; and these are the only precautions that can be taken to make the general will always clear, and prevent the people from being deceived.

CHAP. IV.

Of the Limits of the Sovereign Power.

IF the *state* or *city* is only a moral person, the existence of which consists in the union of its members; and if its most important care is that of preserving it-
self,

self, there is a necessity for its possessing a universally compulsive power, for moving and disposing each part in the manner most convenient to the whole.

As Nature gives to a man the absolute command of all his members, the Social Compact gives to the political body the same command over the members of which it is formed; and it is this power, when directed by the general will, that bears, as I have said before, the name of **SOVEREIGNTY**.

But, besides the *public person*, we are to consider the *private persons* which compose it, and whose lives and liberty are naturally independent of it. The point here is to distinguish properly between the respective rights of the citizens, and the

sovereign

sovereign power*; and between the duties which the former have to fulfil in quality of subjects, and the natural rights which they ought to enjoy in quality of men.

It is granted that all which an individual alienates by the social compact, of his power, his property, and his liberty, is only a part of that in the use of which the community is concerned; but we must also grant, that the sovereign power is the only judge of that which the community may have occasion for.

* Be not too hasty, Reader (says Rousseau, in a note), to accuse me of contradicting myself. I could not avoid doing so in terms, on account of the poverty of the language; but have patience until I explain my meaning.

All

All the services which a citizen can render to the state, must be rendered as soon as the sovereign power demands them; but the sovereign power cannot, on its side, impose any burden on the subject which the interest of the community does not render expedient; neither can it have the inclination to do so: for under the law of reason nothing is done without a cause, any more than under the law of nature.

The engagements which bind us to the social body, are only obligatory because they are mutual; and their nature is such, that in fulfilling them we cannot labour for others without labouring at the same time for ourselves.

Where-

Wherefore is the general will always right; and wherefore do all the wills which form the general will invariably seek the happiness of every individual amongst them, if it is not that there is no person who does not appropriate the word *each* to himself; and who does not think of himself when he is voting for all? which proves that the equality of right, and the idea of justice which it inspires, is derived from the preference which each gives to himself, and consequently from the nature of man.

The general will, to be truly such, must be so in its views, as well as its essence: it must be ready to part with every thing, to apply it to ALL; and it loses its natural rectitude when it tends
towards

towards any one individual object; because then, judging of what is extraneous, it has no fixed principle of equity to guide it.

In fact, as soon as it employs itself with the deed or the right of an individual, in any point which has not been regulated by a general convention, the affair becomes contentious. It is a process wherein the person interested is one of the parties, and the public the other; but where I see not any law that must be followed, or any judge who can decide. It would be ridiculous in such a case to bring the general will to an express decision, since that decision would be formed only on the conclusions of one party; and the will would of course be,

G

with

with respect to the other party, but the will of an Individual, hurried on that occasion into injustice, and subject to error. Thus, in the same manner as a private will cannot represent the general will, the general will, in its turn, must change its nature by having any private views; and cannot, as the general will, pronounce either on a man or his actions.

When the people of Athens, for example, nominated or cashiered their chiefs; decreed honours to one, imposed punishments on another, and by the multitude of their private decrees exercised indistinctly all the acts of government; the people, properly speaking, had then no longer a general will; they acted

acted no more as a sovereign power, but as a magistrate. This appears contradictory to common ideas, and I shall leave it to time to unfold mine.

We must perceive by this that the generality of the will depends less on the number of voices than on the common interest which unites them; for in this institution each necessarily submits to the conditions which he imposes on others: an admirable union of interest and justice, which gives to the common deliberations a character of equity that vanishes in the discussion of all private affairs, for want of a common interest to combine the will of the judge and the will of the party.

By whatever path we return to our first principle, we always arrive at the

same conclusion; which is, that the social contract establishes amongst citizens such an equality, that they are all engaged under the same conditions, and must all enjoy the same rights; and that, by the nature of the Pact, all acts of the sovereignty, that is to say, all authentic acts of the general will, oblige, or favour, all citizens alike; in such a manner as evinces that the sovereign power knows no person but the body of the nation, and does not distinguish any one of the members which compose it.

What in reality is this Pact but an act of the sovereignty? It is not a convention between a superior and an inferior, but a convention of the body with each of its members; rendered legal by hav-

ing the social contract for its basis ; equitable, because it is common to ALL ; beneficial, because it can have no other object but the general good ; and solid, because it is guaranteed by the public force, and the supreme power.

While subjects are under the governance of such conventions only, they obey no person ; their obedience is paid to their own proper will : and to enquire how far the respective rights of the sovereign and citizens extend, is to ask how far they can engage with themselves, *each* towards *all*, and *all* towards *each*.

We see, by this, that the sovereign power, all absolute, all sacred, all inviolable as it is, neither will, or can, exceed the bounds of general conventions ;

that every man may fully dispose of what is left to him of his property and his liberty by these conventions ; and that the sovereign power never has any right to charge one subject more than another, because then the affair would become personal ; and in such cases, as I have already shewn, the power of the sovereign is not to act.

These distinctions once admitted, it is evidently false, that individuals have made any real renunciation by the social contract. On the contrary, they find their situation, by the effect of that contract, rendered greatly preferable to what it was before ; and that, instead of making any alienation, they have only made an advantageous transition from a mode of living

living unsettled and precarious; to one more established and secure; from a state of natural independence to one of liberty; from possessing the power of injuring others, to the enjoyment of that protection which secures them from being injured; and from the right of employing that force, which others might, by the employment of theirs, overcome, to the right of benefiting by that aggregate force which is invincible. Their lives even, which they have devoted to the state, are continually protected: and when they are exposed in its defence, what is it but restoring that which they have received from it?—What do they do but what they did more frequently, and with more danger, in a state of nature;

when, living in continual and unavoidable conflicts, they defended, at the peril of their lives, the property which was necessary to the preservation of life? **ALL**, it is true, must fight for their country when their service is requisite; but then no person has occasion to fight for himself as an individual. And is it not gaining a great advantage, to be obliged to incur occasionally only a part of that danger for the protection of the state to which we owe our own security, which we must be again exposed to if driven from the social state, and depending entirely on our personal force to protect us?

CHAP. V.

Of the Right of Life and Death.

IT may be asked how individuals, having no right to dispose of their own lives, can transmit to the sovereign power a right which they do not possess? This question appears difficult to solve, only because it is improperly stated. Every man has a right to risk his life for the preservation of it; and no man was ever said to intend suicide by throwing himself from a window to avoid the flames of a burning house: neither is that crime imputed to him who perishes at sea in a tempest, which at the time of his embarkation could not be foreknown.

The end of the Social Treaty is the
prefer-

preservation of the contractors. Whoever would enjoy the end must pursue the means; and some risks, and even some dangers, are inseparable from these means.

The man who would preserve his life at the expence of the lives of others, must in turn expose his own for their protection when it is necessary.

The citizen is not a judge of the peril to which the law may necessarily expose him; that when the prince* says

* ROUSSEAU does not use the term *Prince* to express, according to the common acceptation of the word, a man who is a Sovereign or Chief Ruler: neither does he apply it to the principal Magistrate, or head of Executive Power singly; but to the whole Body of Government collectively, and to that Body alone.

to

to a man, "It is expedient for the state that thou shouldst die," he must die, because it was only on that condition he enjoyed till then his security; and that his life is not to be considered simply as the boon of Nature, but as a conditional gift from the state.

The punishment of death inflicted on criminals may be considered in the same point of view; it is to secure himself from being the victim of assassins, that a man consents to die if he becomes an assassin: for in the Social Treaty the parties are so far from disposing of their own lives, that the utmost care is taken to guard them; and it is not to be supposed that, at the time of contracting, any of the contractors intend to deserve the gallows.

Every

Every malefactor who, by attacking the social right, becomes a rebel and a traitor to his country, ceases by that act to be a party in willing the laws, and makes war, in fact, with himself: the existence of the state then becomes incompatible with his; one of the two must therefore perish; and when the criminal is executed, he suffers less as a citizen than as an enemy. The proceedings against him, and the judgment pronounced in consequence, are the proofs and the declaration that he has broken the social treaty, and of course that he is no longer a member of the state. But he being still considered as such while he sojourns in the country, he must be either removed by exile, as

a vio-

a violator of the social pact; or by death, as a public enemy: for such an enemy is not a moral person, he is simply a man, such as he was in the state of nature; and as such, the right of war allows him, when vanquished, to be killed.

But, it may be asked, is not the condemnation of a man an act directed against an individual, and therefore a private act? I grant it: but this condemnation of a criminal does not pertain to the sovereign power; it is a right which that power can confer, though it cannot itself exercise it. My ideas are clear and consistent, but I cannot always find words to explain them. This however it is easy to express, that the frequency of offences is always a
 sign

sign of a weak and indolent government.

There is nothing so vile that it may not be rendered serviceable; and the man whose life cannot be preserved without danger to the state, ought to die, that he may serve for an example, and in that view be of use to society.

In regard to the right of pardon, or exempting a criminal from the sentence directed by the law, and pronounced against him by the judge, it pertains to that which is above the law, and the judge; that is, to the sovereign power: but its right in this case is not very clear, and occasions for using it occur but seldom. In a well-governed state there are few executions; not that there are many pardons

pardons granted, but that there are only a small number of criminals : when a state is declining, the multitude of crimes assures them impunity.

Under the Roman republic neither the senate or the consuls ever attempted to pardon any criminal ; nor did even the people, though they sometimes revoked their own sentence. The frequency of pardons announces that crimes will soon have no occasion for them ; and it is easy to see what that must lead to. But my heart murmurs and restrains my pen. Let us leave the discussion of these questions to the just man who has never erred, or had himself occasion for pardon.

CHAP.

C H A P. VI.

Of the Law.

BY the Social Compact we have given existence and life to the body politic ; it now remains to give it motion - and will for legislation. For the primitive act by which the body is formed determines none of the measures that are necessary for its preservation.

What is good, and conformable to order, is so from the nature of things, and independently of human conventions. Justice flows from God : He only is the source of it ; and if men could be made sensible of its divine authority, we should require neither government or laws. This principle of justice is also undoubtedly universal and founded on reason ;

but it can never, without the aid of human institutions, be sufficient for the purposes of society, unless its influence were equal on the minds of all men, and the conduct of all men equally regulated by its dictates. The natural principle of justice which would operate partially, and not be reciprocal between ALL, must be injurious to the *good*, and advantageous to the *bad* part of mankind: for while the former invariably adhered to its rules, even to their own detriment, the latter would never restrain themselves by them. There must therefore be conventions and laws to combine our duties and our rights; to render the practice of justice mutual between man and man; and to direct it to its great end, the welfare and hap-

H

ness

ness of ALL. In a state of nature, where every thing is in common, I can owe nothing to those to whom I have promised nothing; and I will not acknowledge that any thing, but what I do not wish to possess, can be exclusively the property of another person. It is not so in a civil state, where the right of every man is determined by law.

From hence it may possibly be argued that justice is only a law. But while men content themselves with affixing none but physical ideas to these words, they must continue to reason without understanding the subject; and they are equally ignorant of the nature of justice, whether they term it a law of the state, or pronounce it to be a law of nature.

I have

I have already said that there can be no general will on a matter wherein a private individual is a party. That individual is either in the state, or out of the state. If he is out of the state, the will cannot be general with regard to one who is alienated; and if he is in the state, he makes a part of it; and between the whole and its part there is an affinity which proves the existence of two separate beings; of which the said individual makes one, and the whole (except that individual) makes the other. But a part, though less than the whole by only one, is not the whole; and while this affinity subsists there is no whole, but two unequal parts: from whence it follows that the will of one part

H 2

cannot

cannot be general with respect to the other.

But when ALL the people determine for ALL the people, they are considered as one single person; and their regards are all directed to one object, in whatever point of view they consider it, without any division of the public body. Then the affair on which they enact is general, as is the will that enacts; and that act is called a law.

When I say that the object of the laws is always general, I mean that the Law views its subjects collectively, and their actions abstractedly; never regarding a man as an individual, or an action as that of a private man. Thus the Law may enact that there shall be certain privileges, but

it cannot name the persons who are to enjoy them. The law may divide the citizens into many classes, and specify the qualifications which shall give a right of admission to each class; but it cannot direct such or such a person to be admitted. The law can establish a regal government, and an hereditary succession; but it cannot elect a king, or appoint successors to the crown. In a word, those functions which relate to any individual, pertain not to the legislative power.

Under this idea we perceive, at once, how unnecessary it would be to enquire—To whom belongs the function of making laws? because the laws are but the acts of the general will. Neither need we ask,

whether the prince is above the laws? since he is a member of the state. Or, whether the law can be unjust? as nothing is unjust towards itself. It would be equally superfluous to enquire, how people can be free while subjected to the laws? because the laws which they must obey are but the registers of their own wills.

We see also that the law uniting the universality of the will, and that of the object, whatever is ordered by any man, of his own accord, is not law; nay, even that which the sovereign power orders relative to a private object, is not a law, but a decree; neither is it an act of the sovereignty, but of the magistracy.

I there-

I therefore denominate every state a republic which is regulated by laws, under whatever form of administration it may be; for then only the public interest governs, and the affairs of the public obtain a due regard. All lawful governments are republican *: and I will hereafter explain what that government is.

The laws are properly but the conditions of the civil association. The people submit themselves to the laws to enjoy the right of making them; and it

* I do not by the word republic mean an aristocracy or democracy only, but in general all governments guided by the public will, which is the law. The government should not be confounded with the sovereignty, but be considered as its administrator; and then monarchy itself would be a republic. This will be further explained hereafter.

pertains to those who associate to regulate the terms of association. But how do they regulate them? Is it by common agreement; by sudden inspiration? Has the body politic an organ for declaring its will? Who gives to that body the provident care of forming these acts, and publishing them before hand; or how are they declared at the moment of occasion? How can an unenlightened multitude, who often, we ^{must} suppose, do not see what is immediately before their sight, since they so seldom act as they ought to do—how can they execute, of themselves, so great, so difficult an enterprize as a system of legislation?

The people are always solicitous to promote their own welfare, but of themselves

selves they do not always know in what it consists. The general will is always right, but the judgment that guides it is not always sufficiently enlightened. It is therefore necessary to make the people see things such as they are, or sometimes such as they ought to appear; to point out to them the right path, which they are seeking for; to guard them from the seducing voice of faction; and representing to them the possible as well as the probable consequences of events, induce them to balance the attraction of immediate and sensible advantage against the apprehension of unknown and distant evil. Individuals would then pursue the good which they might otherwise have rejected, and the public would learn to anticipate

ticipate advantages, of which they could have only a perspective view. All men have equally occasion for guides : some to make their wills conformable to their reason, and others to teach them what it is they wish to obtain. From this increase of public knowledge would result the union of judgment and will in the social body ; from that union, the harmony and uniform agreement of all parties ; and from thence the legislature.

CHAP.

C H A P. VII.

Of the Legislature.

TO discover those happy rules of government which would agree with every nation, could only be the work of some superior intelligence, acquainted with all the passions of the human heart, but liable to none of them. Who, without bearing any affinity to our nature, knew it perfectly: whose happiness was independent of ours, but who still condescended to make us the object of his care: and who having persevered through a long course of years in the pursuit of distant glory, could enjoy in
other

other ages the reward of his unwearied zeal*. In short, it must be a God alone that could give such laws to mankind.

The same reasoning which CALIGULA used with respect to *fact*, PLATO employed with respect to *right*, in order to define the *civil man* or *prince*, whom he sought for in his Treatise on Government. But if it be true that a good prince is so rarely to be found, how much more rare must be a good legislator? The first has only to follow the model which the other had to form, One is

* A people do not become celebrated until their legislation begins to decline. We do not know during how many ages the Lacedemonians lived happy under the laws of Lycurgus before there was any account made of them by the rest of Greece.

the

the scientific mechanic, who invented the machine ; the other is the more mechanic, who winds it up and sets it in motion. At the birth of societies (says MONTESQUIEU), the chiefs of the republic form the institution ; but afterwards, the institution forms the chiefs.

Those who dare to undertake the institution of a people or state, must feel themselves in the act of changing human nature : of transforming each individual, who of himself is a perfect and solitary whole, into a part of a much greater whole, from which he in some measure receives his being and his life : of altering the constitution of man, for the purpose of strengthening it : of substituting a moral and partial existence instead of the

the physical and independent existence which we have all received from nature; and, in a word, of removing from a man his own proper energies, to bestow upon him those which he cannot employ without the assistance of others. The more those natural powers are annihilated, the more august and permanent are those which he acquires; and the more solid and perfect is the institution. So that if each citizen is nothing, and can be nothing, but when combined with all the other citizens; and that the force acquired by the whole from this combination, is equal or superior to the sum of all the natural forces of all these individuals; it may with justice be said, that legislation is the highest point of per-

perfection which human talents can attain.

A legislator is in every sense a most extraordinary man in a state. If he must be so from his genius, he is no less so from his employment, which is neither that of the magistracy or the sovereignty. This employment, which constitutes the republic, enters not into its constitution: it is a distinct and superior function, which has nothing in common with human empire; because, if he who commands men must not preside over the laws, he who presides over the laws must not have the command of men: otherwise the laws, employed as the ministers of his passions, would frequently perpetuate injustice; and it would be impos-

sible to prevent self-interest from defiling the sanctity of his work.

When LYCURGUS gave laws to his country, he began by abdicating the regal power. It was the custom with most of the cities of Greece to confide the establishment of their legislation to strangers; and the modern republics of Italy have imitated their example: Geneva in particular did so, and found the advantage of it*. Rome in her most glorious

* Those who consider CALVIN as a theologician only, are little acquainted with the extent of his genius. The compilation of those wise edicts in which he had so large a part, does him as much honour as the principles he inculcated; and whatever revolution time may bring about in our religious opinions,

glorious days saw all the crimes of tyranny revive within her bosom, and herself on the very eve of perishing, by having united in the same men the legislative authority and the sovereign power.

But even the Decemvirs themselves never arrogated the right of making any law by their own authority. *Nothing which we propose to you*, said they to the people, *can pass into a law without your consent. Romans, be you yourselves the authors of the laws which must ensure your happiness.*

He who compiles the laws has not, in consequence of his employment, any

opinions, while patriotism and the love of liberty are not wholly extinct, the memory of that great man will never cease to have the benediction of the Genevans.

right to legislate: and the people cannot, if they should be inclined, deprive themselves of that incommunicable right; because, according to the fundamental pact, it is only the general will that can compel individuals; and it can never be known whether a particular will is conformable to the general will, until it has been submitted to the free suffrage of the people. I have affirmed this already, but a repetition may not be useless.

Thus we find at the same time, in the work of legislation, two things which seem incompatible with each other — an enterprize exceeding human power, executed by a minister who has no authority.

There is also another singularity which
deserves

deserves attention—sages who are not above addressing the vulgar in vulgar language, in order to make themselves understood. But, after all, there are a multitude of ideas which it is impossible to express in the dialect familiar to the people. General views, and remote objects, are equally beyond their comprehension: and every individual, relishing no scheme of government but that which promotes his own private advantage, cannot easily be made sensible of the benefits to be derived from the continual privations imposed upon him by wholesome laws.

For a people, at the moment of their becoming such by the social contract, to

relish wise maxims of policy, and to pursue the fundamental rules of reason and government, it would be necessary that the effect should precede the cause ; that the social mind should prevail even at the institution of society ; and that men should be, before the formation of laws, what those laws alone can make them.

The legislator being, from these reasons, unable to employ either force or argument, must have recourse to an authority of a superior order, which can bear men away without violence, and persuade without convincing them.

It is this that has, in all ages, obliged the founders of nations to recur to the
inter-

intervention of Heaven ; and attribute to the Gods what proceeded from their own wisdom, that the people might submit to the laws of the state, as to those of nature ; and, supposing that the same power which had created man, had formed the government, obey without hesitation, and contentedly endure that restraint so necessary to public happiness.

This sublime reason, so far above the comprehension of vulgar minds, has induced legislators to pretend a divine mission, and affect supernatural assistance in the prosecution of their work ; that those might be gently led along under the supposed sanction of that authority, whom it might be impossible for human pru-

dence to conduct without it *. But it belongs not to all men to employ the name of Heaven on such occasions, or to gain belief if they pretend to be the interpreters of the divine will: the mag-

* E veramente (dit Machiavel) mai non fù alcuno ordinatore di leggi straordinarie in un popolo, che non ricorresse a Dio perche altrimenti non farebbero accettate; perche sono multi beni conosciuti da uno prudente, i quali non hanno in se ragioni evidenti da potergli persuadere ad altrui.

Discorsi sopra Tito Livio, l. i. c. xi.

It is true (says Machiavel) there never was, in any country, a promulgator of extraordinary laws, who had not recourse to supernatural appearances; because, otherwise his system would not have been received; for a wise man may know what benefits will result from certain establishments, though they are not so self evident as to carry conviction to the minds of others.

unanimous

unanimous and comprehensive mind of
 the legislator is the true miracle which
 must prove his mission. Any man may
 engrave upon tables of stone, pur-
 chase the prophecy of an oracle, pre-
 tend a secret intercourse with some di-
 vinity, teach a bird to whisper in his
 ear, or find some other means as gross as
 these to impose upon the multitude : but
 whoever depends entirely on such arts,
 without a fund of knowledge and judg-
 ment to second their effects, though he
 may chance to draw a crowd of supersti-
 tious fools around him, can never lay
 the foundation of an empire. On the
 contrary, his extravagant undertaking
 will soon perish with himself : for illu-
 sions can form but transitory institutions;

it is wisdom alone that must render them permanent.

The Jewish laws have always subsisted ; and, after governing so large a part of the world for ten centuries, proclaim at this day the wisdom of those men by whom they were dictated : and while the pride of philosophy, and the blindness of party prejudice, will see in these men only fortunate impostures, the true politician admires in their institutions that great and comprehensive genius which presides in durable establishments.

After this it is not probable I should conclude with WARBURTON, that policy and religion have with us one common object ; but that, in the origin of nations, the

the one served as the instrument of the other.

C H A P. VIII.

Of the People.

AS an architect, before he begins to erect a superb edifice, examines whether the ground will allow of his laying a foundation strong enough to support the weight of the superstructure; so a law-giver, before he compiles a system of laws, considers whether the people they are designed to govern, are likely to carry them into effect. After such an examination, PLATO refused to legislate for the Arcadians and Cyreneans; well knowing that, as the people were wealthy, they

they would never submit to his equalizing plan. MINOS, though the Cretans were a vicious people, attempted to discipline them; but the consequence was, that, under the excellent laws of that wise legislator, the people of Crete continued vile and detested.

A thousand nations have made a brilliant appearance, who could never have submitted to the governance of good laws; and, even where good laws have prevailed, their existence has been very transitory. In fact, nations as well as human beings are docile only in their youth, and become more stubborn as their age advances. When once customs are established, and prejudices have taken root, it is idle and dangerous to attempt
their

their reformation. People then will not even bear to have their evils examined into with a view to removing them; like cowardly and stupid patients, who tremble at the sight of their physician.

But as there are certain diseases incident to men, which derange the reason, and efface all remembrance of the past; so we sometimes find in states that a revolution, or any other violent event, has such influence on the minds of the people, that the horror which attends the recollection of what has happened, produces the same effect as forgetfulness does in the individual; and that the nation, uniting again after being torn by civil wars, and rising like a phoenix from her own ashes, recovers all the vigour of youth

youth at the moment of her renovation. This was the case at Sparta, in the time of LYCURGUS; and afterwards at Rome, upon the expulsion of the Tarquins. The same thing likewise happened in Holland, and amongst the Swiss, after they had burst from the chains of their tyrants.

But these events are rare; they are exceptions to the general course of things, and can only arise from the particular constitution of the state. They can never happen twice to the same people; because, though men may from a state of barbarism become free, they cannot do so again after the act of civilization has been resorted to; for then troubles may destroy, but revolutions can never re-establish:

lish : and when the chains of such a people are once broken, they fall asunder, and exist no more ; they therefore want a master, and not a liberator. Oh ye people who are free, remember the maxim, that liberty may be acquired, but never recovered !

There is with nations, as with men, a period of maturity, which it is proper they should attain before they are made subject to laws : but it is not always easy to know when a people are sufficiently matured ; and, if the moment is anticipated, the work is defeated. The Russians will never be perfectly civilized, because their civilization was attempted too hastily. Peter had a genius for imitation, but he did not possess those great talents which

which can create and establish every thing from nothing. Some of his measures were good, but most of them were ill timed. He saw that his people were barbarous, but he did not see that they were unripe for civilization; and was desirous of making them Germans or English, when he should first have made them Russians.' By this unwise proceeding, he has for ever prevented his subjects from becoming what they might have been, by persuading them that they were what they were not.

It is just in the same manner that a French preceptor forms his pupil; he makes him shine while in his childish days, but lays no foundation to render the man respectable.

The

The Russian empire, while solicitous to subjugate all Europe, will be subjugated herself. The Tartars, now its dependents and neighbours, will soon become their masters, and also ours; and all the European princes seem labouring to accelerate the event.

C H A P. IX.

Continuation.

AS nature has determined the size of a proper man, to which if his stature is not conformable, he becomes either a dwarf or a giant; so there are certain limitations for a state, which if not adhered to, it ceases to be a good constitution.

tion. If it be too large, it cannot be properly governed; if too small, it cannot support itself. There is in all bodies politic a certain *maximum* of force which they cannot exceed, and which they sometimes lose by their aggrandisement: for the social bond is enfeebled by extension; and in general a small state is proportionally stronger than a great one.

There are numberless reasons to support the maxim; that administration becomes more difficult, in proportion as the place where it is exercised is removed from the centre of government; just as a weight acquires more preponderance the nearer it is to the extremity of a great lever: and its oppressions increase with its increasing establishments; for every corporate town,
every

every district, and every province, have then their own administrative bodies, which the people must pay; and a still heavier load upon them are the inferior and superior governments, and viceroyalty, each of which must be supported still more extravagantly than the other, as it rises above it in degree, and all at the charge of the unhappy people. Last of these, comes the supreme administration, which crushes down all with its weight: and while the subjects are exhausted by the enormity of its expences, they are so far from being better governed by these different orders of administrators, that they suffer by their multiplication, and would be happier under the direction of one single chief.

K

When

When the affairs of a state are in this situation, there can be no resources to apply to in case of an emergency ; and if any extraordinary exertions are required, the state finds itself upon the eve of ruin.

But this is not all ; for besides that the government has less vigour and activity to enforce the observance of the laws, prevent vexations, correct abuses, and keep the spirit of sedition from being kindled in the distant provinces, the people grow less affected to the chiefs they never see ; they cease to be attached to their country more than to any other part of the world ; or to their fellow countrymen, with the greater part of whom they have no acquaintance.

Another material inconvenience which
attends

attends the too great extent of a state is, that the same laws will not suit with distant provinces, the manners of whose inhabitants differ extremely from each other; and who, residing perhaps in different hemispheres, or at least in different climates, will never submit to the same form of government. Various laws serve only to create trouble and confusion amongst people, who living under the same chiefs, and having continual intercourse, pass to and fro, and intermarry with those of their fellow-subjects amongst whom other customs and other laws prevail; in consequence of which they often cannot know to what patrimony they have a legal claim.

In the motley multitude which are

K 2

drawn

drawn together round the seat of government, talents are frequently overlooked, virtue remains unknown, and vice is suffered to escape with impunity ; while the principal officers of state, fatigued by a multiplicity of affairs, will not take the trouble to look into any thing, but leave the government of the nation entirely to their deputies.

In short, the measures which it is necessary to pursue for maintaining the authority of government (which those in power generally seek to increase, and those that are out of office to diminish) absorb the public care, which is so far from directing its attention to the welfare of the people, that even the defence of the state is often neglected: and thus the body,

too

too large for its constitution, is pressed down, and perishes under its own weight.

On the other side, it is necessary that a state should have a sufficient basis to give it solidity; to resist the attacks it must inevitably meet with, and support the exertions necessary to its preservation: because every nation has a kind of central force, by which they act continually on each other; and each, like the vortices of DESCARTES, endeavours to aggrandize itself at the expence of its neighbours. Thus the weak would soon be swallowed up, and none could be secure of a permanent existence without establishing a general balance of power to make the compressure every where nearly equal.

It appears from these observations that there are reasons for extending, and reasons for confining, the limits of a state ; and the politician must possess superior talents, who can find, between the two extremes, that golden mean, on the adoption of which depends in a great measure the permanency of the nation.

But, after all, the great point is, to establish a sound and strong constitution, for every thing besides is a subordinate consideration ; and the chief dependence of a state must be placed on the vigour generated by a good government, rather than on the resources afforded by enlarged dominions.

There have, however, been states so formed, that conquests were rendered necessary

cessary by the principles of their constitution ; and that on a continual increase of empire depended their very being. Perhaps they felicitated themselves on this happy necessity, which shewed them that their glory and their existence must terminate together.

C H A P. X.

Continuation.

THE body politic may be measured in two different ways:—by the extent of territory, and the number of people ; and there must be a due proportion between both to give true greatness to a nation. The men form the state, and the land must sustain the men ; of course the due proportion is, that the land should

be sufficient to maintain the inhabitants, and the inhabitants as numerous as the land can support. It is this due proportion that gives the *maximum* of force from a given number of people; for if there be too large a domain, the protecting of it is troublesome, the cultivation insufficient, the produce superfluous, and it is in time the cause of involving the state in a defensive war. If the portion of land is too small, the people must depend on the favour of their neighbours, for the additional provision they require; and this proves in time the cause of an offensive war.

Every state which has, from its peculiar circumstances, no alternative but war or commerce, is weak in itself. It depends

depends upon its neighbours ; it depends on events ; and can have but a precarious and short existence. It must change its situation by conquest ; or be conquered, and become nothing itself.

It is impossible to calculate the exact extent of land and number of inhabitants that are sufficient for each other ; as this must vary according to the qualities and fertility of the soil, the nature of its productions, the influence of climate, and in no small degree on the constitutions and habits of those to be sustained ; for some men can subsist on a little in a fertile country, while others will consume a great deal in the most sterile one. We must also pay regard to the degree of fruitfulness of the women ; to those local
circum-

circumstances that may be more or less favourable to population; and to the number of persons whom the legislature may draw together by its establishments. But, in considering these particulars, we must form our judgment from what we foresee, rather than from what offers itself immediately to our view; and make allowance for that increase of people which must naturally be expected. There are, besides, a thousand accidents occurring from situations, that may require, or at least warrant, the taking in more land than appears at first necessary.

People are observed to increase much in mountainous countries: there the natural productions, such as woods and pasture, require little labour; there the
women

women are always (as experience convinces us) more fruitful than in level situations; and there you find, in consequence of its inclined form, a great extent of land, ascending from a comparatively small horizontal base, which base alone we should consider in our estimate.

When a state establishes itself on the borders of the ocean, even amidst barren rocks and sands, the people must occupy a narrower circle. There the fish which the sea affords, will supply, in a great measure, the deficiency of terrene productions: and there it is necessary for men to keep more together, in order to repel invaders, to whom their open coasts expose them. Besides, they can from thence more easily than from an inland situation

send

send colonies to people other parts of the earth, when their inhabitants become too numerous to be maintained at home.

To these circumstances, so necessary for establishing a people, we must add another, the want of which nothing can supply, and without it all the others will be of no effect—I mean the enjoyment of uninterrupted peace. For the time of forming a state is, like that of forming a battalion of soldiers, the very moment when the body is weakest and most easily destroyed; for men make a more powerful resistance even in a state of absolute disorder, than at the busy crisis of a new arrangement, when the attention of each person is engaged by his particular

lar

lar duty, and not by the general danger : and if either war, famine, or sedition assail them at such a period, the state is inevitably overturned.

I admit that governments are sometimes established amidst such tempestuous scenes ; but they are of that kind that never fail to destroy a state. Usurpers frequently kindle up, and never fail to take advantage of, national troubles ; in order to establish, by means of the affrighted people, such destructive laws as could never be adopted in the moments of calmer reason : and the choice of the time for instituting any law is a sure criterion whether it be the work of a legislator or a tyrant.

After these observations, it is probable

I may

I may be asked, "What people are in a proper state to receive laws?" I answer, that it is those who are already united by some original bond of interest or convention, but who have not yet had any established system of laws;—those in whom neither customs or superstitions have taken root;—those who are not afraid of being borne down by a sudden invasion, but who, without entering into the quarrels of their neighbours, can by themselves resist each of them, or assist the one to subdue the other;—those who may be all known to each other, and among whom there is no necessity for laying a heavier burden on men than they are able to bear;—those who may freely pass into other states, and to whom

stran-

strangers may come with equal freedom* ;—those who are neither rich or poor, but have enough to support themselves ;—and, in fine, those who unite the

* When of two neighbouring states the one is so inclosed by the dominions of the other, that they cannot pass without permission, the first is very hardly, and the other very dangerously, situated : and all wise nations so circumstanced, have set their neighbours free from their dependence as soon as possible.

The republic of Thlascala, thus shut up within the Mexican empire, chose rather to gain a passage for themselves, than to buy or accept gratuitous permission of passing from the Mexicans. The wise Thlascalans saw the secret design of their liberality ; they preserved their freedom by refusing it : and this little state, confined within a great empire, was at length the means of its destruction.

stability

stability of an established state with the docility of a new people.

In the arduous work of legislation it is less difficult to know what to establish than what to destroy; and what makes legislators succeed so seldom, is the impossibility of uniting the simple system of nature with those establishments which are necessary for the welfare of society. But as we very rarely see all the circumstances requisite to form a state combine together, so we seldom find any state well constructed.

There is still in this quarter of the world one country proper to receive legislation—it is the island of Corsica. The valour and constancy with which that brave people have recovered and de-

fended their liberty, well deserves to have some wise man step forward and teach them how to preserve it; and I have a presentiment that this little island will some day astonish all Europe.

CHAP. XI.

Of the different Systems of Legislation.

IF we examine in what consists the supreme good of ALL, which ought to be the grand object of every legislature, it will appear to center in these two points—*liberty* and *equality*: in *liberty*, because all private independence subtracts so much force from the body of the state; in *equality*, because *liberty* cannot subsist without it.

L

I have

I have already explained the nature of *civil liberty*: and, with respect to *equality*, the word must not be understood to mean, that *power* and *riches* should be equally divided between all; but that *power* should never be so strong as to be capable of acts of violence, or exercised but in virtue of the exerciser's station, and under the direction of the laws: and that, in regard to *riches*, no citizen should be sufficiently opulent to be able to purchase another, and none so poor as to sell themselves*. By thus moderating the

* If you wish to give permanency to a state, bring these two extremes as near as possible towards each other, and allow of neither excessive wealth or beggary; for the two states, naturally inseparable, are dangerous alike to the common welfare. The one gives birth
to

the wealth, you will moderate the interest of the higher class of men, and repress the avarice of the lower classes.

This equality is deemed by many a mere speculative chimera, which never can be reduced to practice. But, if the abuse is inevitable, does it follow that we ought not try at least to mitigate it? It is precisely because the force of things tends always to destroy equality, that the force of the legislature must always tend to maintain it.

But these general objects of all good institutions must be moderated in every country by local circumstances, arising to tyrants, the other to the favourers of tyranny, and they traffick between them with the public liberty; the one buys it, and the other sells.

from the situation of the place, and the character of its inhabitants : and on this account every state must have its peculiar institution; which, though perhaps not in itself the best of all possible systems, may be the best for that particular state. For example—Is your soil sterile and ungrateful, or your country too confined for its inhabitants? Turn your attention to industry and the arts, that you may exchange their productions for the commodities you are in need of. Do you occupy rich valleys and fertile hills, and in a fruitful country want people? Bestow all your care on agriculture, which is friendly to population; and chase away the arts, which complete the depopulating a country, by crowding together its
few

few inhabitants on certain spots*. Is your residence established on the extensive and commodious shores of the ocean? Cover that ocean with your shipping, and cultivate navigation and commerce: you will have a short but a glorious existence. Or do the waves find nothing on your coast to wash but rocks almost inaccessible? If so, continue to subsist on fish, and be for ever rude: you will live in greater tranquillity; better perhaps, and certainly more happy.

In one word, besides the general max-

* Every branch of external commerce, says M. d'A——, affords but a fallacious advantage to a kingdom in general. It may enrich individuals, or particular towns; but the nation at large gains nothing by it, and the people are not the better.

ims of legislation which apply to all, there are particular circumstances confined to each people which must influence their establishment, and render their regulations proper only for themselves. Thus we see that the Hebrews formerly, and the Arabs in later times, have had religion for their principal object; the Athenians, literature; Tyre and Carthage, commerce; Rhodes, her marine; Sparta, war; and Rome, virtue. The Author of *L'Esprit des Loix* has shewn, in a multitude of examples, with what art the legislature of each state directed its attention towards these objects respectively.

The constitution of a state is rendered most solid and durable, when convenience is so much attended to in the formation

tion

tion of the laws, that they mutually agree, and go hand in hand together. But if the legislature, mistaken in the object, acts on a principle different from that which arises from the nature of things; if the one tends to servitude, and the other to liberty; the one to the increase of wealth, and the other to population; or one to peace, and the other to conquests—the laws will be insensibly weakened, the constitution altered, and the state kept in continual agitation until it is destroyed or changed, and invincible Nature has resumed her sway.

C H A P. XII.

Of the Divifion of Laws.

FOR well ordering the whole, or at least giving the best possible form to public affairs, there are various relations to be considered. First, the entire body acting upon itself; that is to say, the *whole* agreeing with the *whole*, or the sovereign with the state: and this agreement is produced by the general accordance of the intermediary states, as we shall see hereafter.

The laws which regulate this agreement are named *political laws*; and also *fundamental laws*, a title they have some right to if they are wise ones: for there can be for every state but one good
and

and eligible system; and the people who have been fortunate enough to find that out, should adhere to it. But, if a bad one has been adopted, wherefore should they regard as fundamental those laws which are adverse to the general weal? Besides, in every case the people are masters, and may change even the best laws: for, if that body is disposed to injure itself, who has a right to prevent it?

The second relation is that which subsists between the different members, and between the members and the entire body. In the first instance this should be as little, and in the last as great, as possible: so that each citizen should be perfectly independent of each of his fellow

low

low citizens, considering them as individuals ; but absolutely dependent on the *city*, or aggregate body : effects which are always produced by the same cause ; for it is the supreme power of the state that renders its members free and independent of each other. From this second relation arise the *civil laws*.

There is a third relation between men and the law, for the former must obey the latter ; and hence, in case of non-obedience, come the *criminal laws*, which are not so much a distinct species of law, as the establishment is an act which ratifies all the other laws.

To these three sorts of laws there must be a fourth united, which can neither be inscribed on brass or marble, but must live

live in the hearts of the citizens. This makes the true constitution of the state; its powers increase by time; and when all other laws become feeble, or even extinct, this re-animates them, or supplies their place. This preserves among the people the true spirit of their institution, and substitutes insensibly the force of habit for that of authority. I speak of manners, customs, and more than all, of opinions: these are means distinct from politics, but on which the success of all political institutions depends. To them the wise legislator directs his secret care; though he appears to confine his attention to those laws, which, like the builders *centre*, can only serve to raise the mighty vault upon: while the manners

of the people, slowly forming round the frame, will become at last a solid arch, and knit themselves as an immovable key-stone.

Of these different classes, the political laws which constitute the form of government are the only ones that relate to my subject.

END OF THE SECOND BOOK.

OF THE
SOCIAL CONTRACT;

PRINCIPLES OF POLITICAL RIGHT.

BOOK THE THIRD.

BEFORE I speak of the different forms of government, I shall endeavour to fix the precise sense of the word Government, which has not hitherto been very well explained.

CHAP.

CHAP. I.

Of Government in general.

I WARN the reader that this chapter requires to be considered very seriously ; for I am unacquainted with any art which can make the subject clear to those who will not bestow on it their serious attention.

Every free act must be produced by two causes : the one moral, as depending on the mind, for the will must resolve upon the act ; the other physical, because the corporeal powers must execute what the will has resolved on. When I go towards an object, it is necessary, in the first place, that I should be willing to go ; and, secondly, that my feet should
bear

bear me : but if a paralytic person should be willing to go, and an active man should not be willing, both would remain where they were. The body politic has the same movers : and we find equally in it, as in the natural body, both *force* and *will*; the latter distinguished by the name of *legislative power*, and the former by that of *executive power* : and it neither must or can do any thing without their concurrence.

We have seen that the legislative power belongs to the people, and can belong to that body only. It is easy to see, on the contrary, by the principles already established, that the executive power cannot belong to the body of the people, as legislator or sovereign ; because
that

that power exists only for the performance of private acts, which are not to be performed by the law, neither by the sovereign, all whose acts must be laws. It is therefore necessary that the public force should have an agent which shall unite and employ that force, according to the direction of the general will—serve as the means of communication between the state and the sovereign—and form a sort of public person, in which, as in a man, the union of mind and body should be found. This is the reason why the government in a state is generally, and very improperly, confounded with the sovereign power, of which it is but the minister.

Thus we see that government is an intermedial

termed power established between the subjects and the sovereign, for their mutual correspondence; and charged with the execution of the laws, and the maintenance of civil and political liberty.

The members of this body are denominated magistrates or *kings*, that is, *governors*; and the body collectively takes the name of *prince**: so those who think the act by which a people submit themselves to their chiefs is not a contract, have foundation for their opinion. That act is certainly no more than a commission, under which, simply as officers of the sovereign power,

* At Venice they apply to the college of government the title of *Maj. Seren. Prince*, even when the Doge does not assist there.

M

the

the members of government exercise, in the name of the sovereign, the power delegated to them, and which may be limited, modified, or recalled at the will of the sovereign; the alienation of such a right being incompatible with the nature of the social body, and contrary to the end of the association.

I give the name of *government*, or *supreme administration*, to the legal exercise of the executive power; and *prince*, or *magistrate*, to the man, or body, charged with that administration.

It is in the government that those intermedial powers are found, whose connection constitutes the connection of ALL with ALL, or of the sovereign with the state; and which are the means of preserving

ing a proper equilibrium between the different powers. The government receives from the sovereign power the orders which it transmits to the people: and to hold the state on its proper poise, it is necessary to keep upon an equality the power of the government, taken in itself, and the power of the citizens, who are sovereigns in one view and subjects in another.

Not one of these three states can be altered without destroying the due proportion of power so necessary to keep the whole in equilibrium: for if the sovereign assumes the government, if the magistrate arrogates the right of making laws, or if the subjects refuse to obey, disorder must succeed to regu-

larity; and, as power and will can then act no more in concert, the state must of course fall into despotism or anarchy.

In fine, as there can be but one proportional means between two relations, there cannot possibly be more than one government in a state. But, as a thousand events may change the relations of a people, not only different systems of government may be necessary for different people, but for the same people at different periods.

In order to give an idea of the relative proportion which one extreme bears to another, we will suppose that a state is composed of ten thousand citizens: these, in their character as sovereign, must be taken collectively, or in a body; but
each

each of them, in his quality of a subject, must be regarded as an individual. Thus the sovereign is to the subject as ten thousand are to one; that is, each member of the state, formed of ten thousand members, has but a ten thousandth part of the sovereign authority, though he is subjected to the whole. When the people amount to one hundred thousand men, the situation of the subject does not change; but each bears equally the empire of the laws, while his suffrage is reduced to the hundred thousandth part, or ten times less influence in their institution. Thus, as the subject remains always *one*, the sovereign's proportional power increases according to the increased number of citizens. From hence it follows

M 3

that

that liberty is diminished by the enlargement of the state.

When I speak of the proportionate power of the sovereign increasing, I mean that it removes further from equality with that of each citizen. Thus the greater the proportion is in the acceptance of geometricians, the less proportion there is according to the common idea; for in the first instance it is estimated by its quantity, and in the second by comparing it with that to which it relates.

But the less the wills of individuals agree with the general will, that is, the less the manners and customs of the people correspond with the laws, the more the restraining power should be

aug-

augmented; therefore the government, that it may be adequate to the duty required from it, should be made strong in proportion to the number of the people.

On the other hand, as the increasing grandeur of the state presents to the members of government both the temptation and opportunity of abusing the public authority delegated to them; the greater power it is necessary to lodge in their hands for the purpose of governing the people, the more should the power of the sovereign be augmented, that it may controul the government. I do not speak here of absolute power, but of power as it relates to the different parts of the state.

It appears, from this double affinity, that the continued proportion which ought to subsist between the sovereign power, the *prince* or executive power, and the people, is a necessary consequence of the nature of the body politic; and it follows, of course, that one of the extreme parts (the people in their capacity of subjects) being fixed and incapable of change, whenever the proportion is increased or diminished between the other extreme part (the sovereign) and the intermedial state (the executive power), it must increase or diminish in the same degree with respect to the people; and consequently the government, or intermedial state, must undergo an alteration. It is evident from this that
the

the same arrangement of government would not be proper for every state, nor yet (as has been observed already) for the same state in different degrees of greatness.

Those who wish to turn this system into ridicule, will probably tell me that, in order to find this proportional mean, and establish a body of government, there is nothing to be done, according to my account, but to take the square root of the number of people. I reply, that I only made use of a given number by way of example; and that the proportion I speak of cannot be ascertained so much by the number of men, as by their degree of activity, which depends on a multitude of causes; and that, though I

em-

employed the terms of geometry, in order to express my meaning in fewer words, I am not ignorant that geometrical rules have nothing to do with moral quantities.

Government is upon a small scale what the body politic is on an enlarged one: it is a moral person endowed with certain faculties; active as the sovereign, passive as the state; and which may be severed into other relative parts, that will bear their degrees of proportion. The tribunals which must be established will also have their proportions; and so on to that indivisible state, a single chief, or supreme magistrate; which appears in the middle of this progression, as the unit in a series of fractions and numbers.

But,

But, without embarrassing ourselves with a multiplicity of terms, let us be contented to consider government as a new body in the state, distinct from the people and the sovereign, and forming an intermediate link to connect them.

There is this essential difference between the state and the government:—the former is self-existent, and the existence of the latter depends entirely on the sovereign power: so that the ruling will of the prince (the government) is or ought to be nothing more than the general will, or the law; and its power, only the public power concentrated in its hands; which if it attempts to assume to itself by any absolute and independent act, the chain which combined the whole relaxes immediately.

diately. And if at last the private will of the prince is more active in the direction of affairs than the will of the sovereign; and the power delegated to the prince by the sovereign is employed to enforce obedience to such private will, so that there are in effect two sovereigns, the one by right, and the other in fact; at that moment the social union ceases, and the body politic is dissolved.

It is however necessary that the government should be so far an individual person as to be distinguishable from the body of the state; that, as such, its members should have perceptions, power, and will, sufficient for the preservation of the body. This distinct existence supposes them to hold assemblies and councils; to delibe-
rate

rate and resolve; and to have rights, titles, and privileges, which belong to the prince alone, and which render the situation of a magistrate more honourable, in proportion as it is more laborious.

The great difficulty of forming a body of government lies in ordering the chain of subaltern arrangements in such a manner, that the general constitution may not be altered by giving too much strength to any part; but that the power necessary for preserving the body may be kept subordinate to, and distinct from, that which is necessary to preserve the state: and, in fine, that on every occasion the government may be sacrificed to the people, and not the people to the government.

It

It is also necessary to observe, that though government is an artificial body, formed by, and dependent on, another body, likewise artificial; and though in some degree its existence is borrowed and inferior; yet, as it can act with more or less strength and activity, it may be said to enjoy a greater or less degree of robustness and health: and therefore, without swerving entirely from those duties for the performance of which it was instituted, it may, by a feeble or too vigorous exercise of its power, discover that its constitution is unsound.

It is in consequence of these distinctions that so many relations between the government and the body of the state arise; and these relations must be more or less,

according to the changes that may take place in the state : for the very best government might become the worst, if such new arrangements were not made in it as may be required by the situation of the body politic to which it belongs.

C H A P. II.

*Of the Principle which constitutes the different
Forms of Government.*

TO explain the general cause of the difference we observe in the forms of government, it is necessary to distinguish the prince from the government, as I have already distinguished the state from the sovereign.

The body of the magistracy may be
composed

composed of a greater or less number of members; and as we have shewn that the comparative degree of power which the sovereign has over the subject is increased by an increase of population, so it appears by analogy that the power of government over each magistrate, as a member of its body, must be augmented by their augmentation.

But the power in the hands of government, being the whole power of the state, cannot vary from an increase or diminution in the number of magistrates; from whence it follows, that the more of this power it employs on its own members, the less there will remain to be employed over the people. Therefore, the more numerous the body of magistrates

is,

is, the weaker the government must be. As this is a fundamental maxim, it will be proper to explain it clearly.

There are in the person of a magistrate three distinct wills, essentially different from each other. First, his proper will as an individual, which always points to his own interest. Secondly, his will as a magistrate, which he has in common with the other magistrates; which regards only the interest of the prince, and may be properly called the will of the executive body of which he is a member: this will is *general* with respect to government, but *private* with respect to the state, of which the government makes a part. His third will is that which he possesses as a citizen, and is the will of the sovereign.

vereign. This will is general in every sense; both in regard to the state as the WHOLE, and to the government, considered as part of the WHOLE.

In a perfect state, the private will, or will which a man has as an individual, should be null; the will of the body of government, very subordinate; and consequently the general will, or will of the sovereign, predominant over all, and directing all. But where the legislature is defective, the gradations take an opposite direction. There, the general will is weak, that of the magistracy stronger; and the private will, which studies only the interest of the individual, the strongest of all: a direct inversion of that order of things which the social state requires.

But

But let us suppose the government in the hands of one man : then the will of the individual, and the will of the body, are united ; and of course the latter enjoys the highest degree of power it is capable of. Now since it is on the degree of authority possessed by the commanding will that the degree of power depends ; and since the absolute power of government cannot vary, because, as we have said before, it comprehends the whole power of the sovereign ; it must follow of course that the most active government is that of one man.

But if we were to unite the government to the legislative authority : make the sovereign the prince, and all the citizens magistrates ; then the will of the body, confounded with the general

will, would lose its own activity, yet leave the will of the individual in all its force. Thus the government, though always possessing the same absolute power, would be in its *minimum* of relative force or activity.

All this is incontestable, and may be still further proved. We see, for instance, that the magistrate is more active in his body (the government) than the citizen is in his (the sovereignty); and that of course the will of the individual has more influence in the acts of government, than in those of the sovereign: for each magistrate is almost continually employed in some function of government; while the citizen, taken singly, has none of the functions of the sovereignty to perform.

As the state increases, there is an increase in its real strength, though not in proportion to its increased extent. But while the state remains the same, it would be absurd to augment the number of magistrates, since their real force could not be augmented, as they can have none to employ but that of the state, which is always equally proportioned; and the relative power, or the activity of government, would be considerably diminished: for it is certain that public business is retarded in proportion to the number of persons employed in transacting it; that they often err by attending too much to prudence, and not leaving enough to fortune, by which means opportunities are lost; and that the time they spend in

deliberating would, if properly improved,
often ensure the object of deliberation.

I shall now prove that government
is weakened in proportion to the multi-
plication of magistrates; as I have al-
ready proved that the restraining power
must be augmented as the people become
more numerous: from whence it results,
that the proportion of magistrates to the
government, must be exactly the reverse
of the proportion of subjects to the sove-
reign; that is, the more the state ex-
tends, the more the government must be
compressed: so that the number of chiefs
may diminish as the number of the peo-
ple increases.

I here speak only of the relative force
of government, and not of its rectitude;

for,

for, the more magistrates there are, the nearer their will must approach to the general will ; while, under one single magistrate, this same will of the body is, as I have before remarked, only the will of an individual.

Thus what is lost on one side, is gained on the other : and the great art of a legislator is, to fix the exact point where the power and will of government, always bearing a reciprocal proportion, can be combined in the manner most advantageous to the state.

C H A P. III.

Division of Governments:

WE have seen, in the preceding chapter, that the different forms of government are distinguished by the number of members which compose them; we shall now see how governments are divided.

The sovereign can commit the charge of administering the laws to all the people, or to the greater part of the people, in such a manner that there will be more citizen magistrates than private simple citizens; and this form of government is called a *democracy*.

The sovereign can also confine the government in the hands of a small number,

ber, so that there may be more citizens than magistrates; and this form is denominated an *aristocracy*.

In fine, the whole government may be concentrated in the hands of one magistrate, from whom all the other magistrates shall hold their power. This is the most common form, and is known by the name of *monarchy*, or *regal government*.

All these forms of government, but especially the two first, are susceptible of great variation. Democracy may include all the people, or be confined to any part not less than half. Aristocracy may take in half the people, or be centered in the smallest number, indeterminately. Even royalty may be divided. Sparta had, by the rules of her constitution, always

ways two kings ; and the Roman empire is known to have had eight emperors, without the empire being absolutely divided. So that each form of government has some point which runs it into, and confuses it with, the next ; and we see that, under the names of *democracy*, *aristocracy*, and *monarchy*, government may be modelled into as many different forms as there are citizens in the state.

Nay, further still—the same government may in some respects be subdivided into different parts ; one part administered in one manner, and another in another : and, from the combination of all the three forms, a multitude of mixed forms may proceed, each of which may be again multipliable.

It

It has been the subject of dispute, in all ages, which of the three forms of government is the best ; but those who argue on such a theme should remember, that each may be the best in certain cases, and the worst in others.

If it be necessary in states that the number of supreme magistrates should diminish in an inverted proportion to the increased number of citizens ; then, consequently, the democratic government is most suitable to small states, the aristocratic to those of the middle class, and the monarchical to the greatest. This rule may be laid down as a general one ; but it is impossible to say how many exceptions to it may be produced by occurring circumstances.

C H A P. IV.

Of Democracy.

THE power that makes the laws, must know better than any other person how they ought to be interpreted, and how executed. It seems, from this, that the best constitution would be that where the legislative and executive powers are united. But that very union is the thing which renders a democratic government so insufficient in many respects; because, by that means, those things which ought to be distinguished are not; and because the prince and the sovereign being then the same, form in a manner a government without a government.

It

It is not expedient for the power that makes the laws to execute them ; neither would it be proper that the body of the people should turn their eyes from general views to fix them on particular objects ; for nothing is more dangerous to a state than private interest having any influence on public affairs ; and the abuse of the laws by the government is a less evil than the corruption of the legislature, which is an infallible consequence of such private views. When once the legislature becomes corrupted, the very nature of the state is changed, and all reformation impracticable. A people who never abused government would never abuse independence ; and a people who always governed themselves well, would have no occasion to be governed.

Taking

Taking the word *democracy* in its strict sense, perhaps there never did, and never will, exist such a government: for it is against the order of things that the greater number should govern, and the smaller number be governed; as that would create a necessity for the chief part of the people being always assembled for the discharge of their duty as magistrates, which can rarely happen. It is therefore evident that the form of government must change, or commissioners be appointed to govern.

I believe it may be laid down as an axiom, that when the functions of government are divided amongst a number of tribunals, the fewer they are the greater will be their authority; if it were for no other reason than because public affairs will

will be transacted with greatest ease and expedition in fewest hands.

Let us now enquire what circumstances must conspire to make a democratic government possible. First, the state must be a very small one, where the people could easily assemble, and where each citizen might know the concerns of all the others. There must, in the second place, be great simplicity of manners, to prevent a multiplicity of affairs, and those tedious discussions which are the consequence of them: and there must also be much equality in the rank and fortunes of all the citizens. In fine, there must be little or no luxury; for whether it be considered as the effect of riches, or as the incitement to covet them, it corrupts

corrupts by degrees both the wealthy and the poor; the one by its possession, the other by the desire of possessing; it betrays the nation into effeminate softness, and debases it by vanity; and, in fine, it drives the citizens from the state, by endeavouring to make them subservient to each other, and all the slaves of opinion.

This is the reason why a celebrated author has made virtue the principle on which a republic must be founded; because all these circumstances could never subsist without her ruling influence. But this fine genius has not only omitted making the necessary distinctions, but he is not always just, and sometimes obscure; and he did not perceive that, the sovereign authority being every where the same,

same, the same principle must prevail in every well-formed state; but in a greater or less degree, according to its form of government.

I must yet add, that there is no government so subject to civil wars, and internal agitations, as the democratic or popular one; because there is not one which has so strong and so continual a tendency to change its form, which can only be preserved by the vigilance and courage employed to maintain it. This is the constitution which more than any other, requires the citizen to arm himself with strength and constancy, and to repeat every day of his life what a virtuous Palatine* said in the diet of Poland—

* The Palatine of Posnania, father to the king of Poland, duke of Lorrain.

Male periculosam libertatem quam quietum servitium.

If there were a nation of gods they might be governed by a democracy ; but so perfect a government will not agree with men.

C H A P. V.

Of Aristocracy.

WE have here two moral persons entirely distinct from each other—the government, and the sovereign ; and consequently two general wills—the one formed by the agreement of all the citizens, the other by that of the members of administration only. Thus, although the government can regulate the interior police

police as it pleases, it can never speak to the people but in the name of the sovereign; that is, in the name of the people themselves: a circumstance which must never be forgotten.

The aristocratic form of government prevailed in the first societies. The chiefs of the families deliberated amongst themselves on public affairs, while the younger people submitted without reluctance to the authority of experience; and hence the names of *Priest*, of *Elder*, of *Senator*, &c. This mode of government still prevails amongst the savages of North America, and they are said to be very well governed.

But in proportion as the inequality produced by this institution increased,

the rich or the powerful * were preferred to the aged, and the aristocracy became elective. In fine, the power transmitted with the property of the father to the son, rendered some families patrician, made the government hereditary, and introduced into the senate men of only twenty years old.

There are three sorts of aristocracies; the natural, the elective, and the hereditary. The first is suited only to people in a state of perfect simplicity; the third is the worst of all governments; and the second, which is the true aristocracy, is the best.

* It is clear that the word *optimates*, with the ancients, did not mean the best but the most powerful.

Besides

Besides the advantage of two distinct powers, this last species of aristocracy has that of choosing its members : for in popular governments all the citizens are born magistrates ; but this confines their number, and none can enjoy the magisterial power but by election* : by which means probity, knowledge, experience,

* It is of infinite consequence to a state that the election of magistrates should be regulated by laws for by leaving it to the will of the prince, or executive body, an hereditary aristocracy will certainly be established, as was the case in the republics of Venice and Bern. The first of these states has in consequence fallen long since into decay ; and the latter, which is preserved by the extreme wisdom of its senate, stands an honourable but a dangerous exception to a general rule.

and all the other qualities which conciliate public preference and esteem, are so many new guarantees to the people that they shall be judiciously governed.

And, more than this, the public assemblies are better conducted; affairs better discussed, and dispatched with more order and diligence; and the credit of the state is more firmly supported with foreigners by a certain number of venerable senators, than by an unknown or contemptible multitude.

In short, it is the best and most natural rule, that the wise should govern the multitude, when there is an assurance that the welfare of the governed, will be studied in preference to the advantage of the governors. It is also a just maxim,
never

never to increase unnecessarily the springs of government; by employing, for instance, twenty thousand men, in that which might be even better done by one hundred chosen out of the number.

But we must not forget, while meditating on these evident advantages of aristocracy, that there are evils attending it. The aristocratic body may, by degrees, employ the authority committed to them in such a manner as to influence the general will; and it has an inevitable propensity for carrying to the laws a part of the executive power.

With regard to the circumstances particularly favourable to this form of government, it does not require the state to be so small, or the people to be so

innocent and upright, as they must be in a democracy, where the execution of the laws immediately succeeds the general will. Neither should the nation be so extensive, as to give opportunity to those chiefs who are dispersed for the purpose of governing its provinces, to assume independence; and erect states, which may in time subdue, and tyrannize over, the parent state.

But if an aristocracy may subsist without all the virtues indispensable in a democracy, it requires others which are peculiarly its own; such as moderation in the rich, and contentment in the poor: for a rigorous equality would be improper in a state so governed; it was not found even at Sparta. But if the aristocratic

cratic

cratic system allows of a certain inequality of fortune, the reason is, that in general the administration of public affairs may be confided to persons, who, being free from pecuniary cares, may give all their time and attention to their magisterial duties; and not, as ARISTOTLE pretends, because the rich are always preferred. Nothing could be more impolitic or absurd than making riches alone the object of preference; since a contrary choice sometimes teaches the people, that merit has a much stronger, and more important claim to public favour, and confidence, than wealth can possibly create.

CHAP.

C H A P. VI.

Of Monarchy.

WE have hitherto considered the prince as a moral and collective person, united by the power of the laws, and in whom the executive authority is vested. We must now consider this authority as centered in the hands of a natural person, of a real man ; who, alone, has a right to direct every thing according to the laws. And this person is called a Monarch, or King.

As in the democratic and aristocratic administrations, a collective body is considered as an individual; so here, an individual represents a collective body, in such a manner, that the moral unity which constitutes the prince, is at the same time a physical unity, in which all the faculties
that

that the law unites in the other, are found at once united.

Thus the will of the people, and the will of the prince, and the public force of the state, and the individual force of the government, all combine in one chief mover; all the springs of the political machine are regulated by the same hand; and as they all act together for effecting the same purpose, the movement of no one part can clash with or impede another; and it is impossible to imagine any kind of constitution in which the least effort would produce a more considerable action. The idea of ARCHIMEDES sitting quietly on the beach, and drawing on shore a large vessel, represents to me an able monarch, governing from his cabinet a mighty empire; and giving motion to all, while he remains immovable.

But

But if there is no government which possesses more vigour than monarchy, there is not one in which the will of the individual has greater influence, or domineers more easily over the others. All moves, it is true, to the same end; but that end is not the public felicity: and the power of the administration, is turned incessantly to the prejudice of the state.

Kings are all desirous of being absolute; and they are told from all quarters that the most certain way of becoming so is to gain the affections of the people. This is a fine maxim; but unfortunately, those who endeavour to conciliate the love of the multitude as a means of arriving at despotism, always find themselves deceived in the pursuit. That authority which is derived from the attachment of the people, is undoubtedly the greatest; but it is precarious, and
condi-

conditional, and princes are never contented with it; for even the best kings wish to possess the power of being tyrants, if they please, with impunity.

A political preacher may blazon to the multitude that, when the power of the people is concentrated in their monarch, it is the monarch's interest that they should be flourishing, numerous, and formidable: but every thinking auditor must know the dogma so deduced to be untrue; and that it is the despot's policy to keep his subjects weak and miserable, that they may want the power to resist him. I grant, that, if subjects were always perfectly submissive, it would be the prince's interest to make them powerful; because, as their power would be his, he might employ it to render himself formidable to the neighbouring states. As this is however but a secondary consideration;

sideration; and as the two suppositions, of a people being able to resist the will of a tyrant, and of their continuing entirely obedient to his will, are incompatible; we must of course conclude that princes will ever give the preference to that maxim which will be most immediately useful to them. SAMUEL represented this in the strongest manner to the Hebrews, and MACHIAVEL has proved it by incontestable evidence. Indeed this celebrated politician, while he pretends to be giving lessons to kings, gives the noblest lesson to the people; and THE PRINCE of MACHIAVEL is the book of republicans.

We have found, from their general agreement, that monarchy is most proper for an extensive state; and we shall be more convinced of it as we enquire further into the subject.

In proportion as the members of the
 2 admini-

administrative body increase, the respect in which they are held by the people diminishes; and they all draw towards an equality, such as prevails in a democratic government. This respect increases in proportion as the magistracy is compressed, and gains its *maximum* when government is in the hands of one single man: but then there is too great a disparity between the prince and the people, and the state feels the want of some connecting chain. Intermediate degrees of rank are found necessary; and princes, grandees, and noblesse, are created to fill them. But nothing of this kind is requisite in a little state, where all ranks are united in one.

Great states are in general ill governed; and how is it possible they should be otherwise under the government of one man? For one man cannot preside every where; and when once a king governs
by

by his deputies, the consequence is inevitable.

There is one essential and certain evil attendant on monarchical governments, which must always render them inferior to republics: it is, that while in the latter, men of talents and information, whose abilities do honour to the choice that selects them, are chosen by the people to fill the highest offices of the state; those appointed by the single will of a monarch are too frequently a disgrace to their station. They are in general men who have wound themselves into favour by knavery, tattling, and intrigue; and who, making their way to power by those superficial qualities that please a giddy court, have no sooner attained it, than they discover to the world their unfitness to hold the situation.

The people are much seldomer mistaken in their choice than the monarch

is;

is ; and you as seldom find a fool at the head of a republican government, as you do a man of true merit presiding in the cabinet of a prince. But when, by some happy chance, a man of talents, born to govern, is placed at the helm of an almost sinking monarchy, it is astonishing to see the resources he opens by a series of judicious management : and this is one of the great events which form an epocha in a country.

In order to have a monarchical state well governed, its extent of territory should be proportioned to the genius of the prince who governs it. It is easier to conquer than to rule. Had we but a sufficient lever, we might, even with a finger, lift the world ; but it would require the shoulders of Hercules to support it afterwards. However little a state may be, the prince is almost always too little for it. But even when the state is

too small for the prince, which very rarely happens, still we find it equally ill-governed; for then the chief, pursuing continually the greatness of his views, forgets the interests of his people; and renders them no less unhappy by the abuse of his superabundant talents, than a weak chief does by the want of those which nature has denied him. It would therefore be proper for a kingdom to expand or compress itself at the accession of every prince, and as nearly as possible to adapt its limits to his capacity; but as the talents of a senate are always pretty much on an equality, the state it governs may have its determined bounds, and the administration never suffer by it.

The most sensible inconvenience attending the government of a single man, is the want of that continual succession of members, which form in the two others

an

an uninterrupted chain. A king dies, and there must be another. If he is to be elected, the interregnum leaves a dangerous interval, which often proves very turbulent; and unless the citizens have more disinterestedness and integrity than is common under such governments, corruption mixes with the spirit of cabal, and influences the election. The chief to whom the state has been sold, will probably sell it in his turn, and indemnify himself for the gold which the powerful electors extorted from him. Thus, sooner or later, all must become venal under such a government; and the peace which may follow the accession of a new king, is worse than the disorders of the interregnum.

Let us now see what has been done to prevent those evils.

Crowns have been made hereditary in certain families; and an order of succe-

tion established which puts an end to all disputes upon the demise of kings : that is, the inconvenience of a regency has been substituted for that of an election ; apparent tranquillity preferred to a wise administration ; and the danger of having children, fools, or monsters, become kings, incurred, to avoid some disputes about the choice of good ones. Those who were the authors of this institution must have been dull indeed, if they did not perceive that, by chusing such an alternative, the chances were all against them. One great evil of hereditary monarchies is strikingly shewn in the very sensible reply of the younger Dionysius, when his father, reproaching him for some base action, said, " I never set you the example." " No (answered the young tyrant); your father never was a king."

Everything conspires to deprive a man, who is brought up in the opinion that he
has

has a right to command, of the use of his reason as well as of his principles of justice. We are told, indeed, that much pains are employed to instruct a young prince in the art of reigning ; but we do not find that they profit by this part of their education ; and it might be of greater utility if they were first taught to obey : for those kings of whom history makes the most honourable mention, were not trained in the expectation of wearing a crown. The science of governing is perhaps the only one of which those persons always know the least who have been the longest taught it, and which is generally acquired in the most perfect manner by persons accustomed to submission. *Nam utilissimus idem ac brevissimus bonarum malarumque rerum delectus, cogitare quid aut nolueris sub alio principe aut volueris* *.

One consequence of that want of connex-

* Tacit. Hist. l. i.

ion in monarchical governments which exists in both the others, is, that being sometimes regulated by one plan, and sometimes by another, according to the disposition of the king who reigns, or of those who reign for him, it cannot long have one determined object to pursue: and the consequent variation of conduct, always makes a state waver from maxim to maxim, and from project to project; an evil which cannot exist in a democracy, or an aristocracy, where the prince or administrative body is always the same.

It is evident, from this comparative view of all the three different governments, that, if there is more cunning in a court, there is more wisdom in a senate; and that republics pursue their ends by a more regular course, and follow them with greater constancy; which indeed cannot be done in a government that experiences a kind of revolution on every change

change of ministry: for it is a maxim with both ministers and kings, to take exactly the contrary path to that which their predecessor walked in.

We may draw, from this want of coherence in kingly government, the solution of a sophism very familiar to royal politicians: it is, the not only comparing civil to domestic government, and the prince to the father of the family (an error already confuted); but giving liberally to that magistrate all the virtues he can have occasion for, and supposing him always the very thing he ought to be. By the aid of this supposition, the regal government must appear evidently the best of all; because it is incontestably the strongest, and only wants a will more conformable to the general will, to give it the superiority over all others.

But if, according to Plato, a man qualified by nature to be a king, is very rare;

in what a variety of circumstances must nature and fortune concur to crown him ! And, if royal education necessarily corrupts those who receive it, how can we hope for a succession of men that are duly qualified for reigning ? Those persons must therefore be very willing to deceive themselves, who confound royal government in general with the government of a good king. To know what monarchy really is, we must view it under weak or dissolute princes, whether they came such to the throne, or imbibed their vices from it.

These difficulties have not escaped our political writers, but they have thought fit to advise a remedy for them all at once : it is simply this :—Obey without murmuring ; for, as God has given bad kings in his anger, we must bear their oppressions as the chastisements of Heaven.—Discourse of this kind is undoubtedly very edifying ;

edifying; but I believe it would do better from the pulpit than in a book of politics. What should we say to a physician who, after promising miracles, should discover his only art to lie in making sick people patient? We know very well that a bad government must be endured when we are under it. The question should be, to find out a good one.

C H A P. VII.

Of mixed Governments.

THERE are not, properly speaking, any simple governments; for a single chief must have subordinate magistrates, and a popular government cannot do without a chief. Thus we see, that, in the partition of executive power, there is always a gradation; but the members that compose the gradation are sometimes

times more and sometimes less in number, according to the form of government. The most material difference between the different forms is, that in some, the members depend upon the chief; and in others, the chief depends on the members.

Sometimes, however, we see an equal division, when the constituent parts are mutually dependent, as in the government of England; or when the authority of each part is independent, but imperfect, as in Poland. But this last form is very exceptionable; because the government wants unity, and the state wants connexion.

If I were asked which is the best form of government, the simple or the mixed, a question that has been strongly debated by politicians, I should answer as I have already done with respect to all the other forms:—the simple government is the best in itself, because it is simple: but
when

when the executive power does not depend sufficiently on the legislative; that is, when the equality between the prince and the sovereign is nearer than between the people and the prince; the want of due proportion among the powers of the state must be remedied by dividing the government; for then the parts of government will have still no less authority over the subjects, and their division will render them less formidable with respect to the sovereign.

The establishment of intermediary magistrates would also remove or prevent this inconveniency; for, while they left the government entire, they would balance the two powers, and maintain their respective rights. By this means the government is not mixed, it is tempered.

The opposite evil to the one I have been speaking of will find its remedy by similar measures: that is, when government

is

is too much relaxed, by erecting tribunals
to concentrate it.

This has been practised in all democracies. In the first instance the government is divided to weaken it; and, in the second, to give it new force: for the *maximum* of strength and of weakness is equally found in a simple government as in a mixed one.

C H A P. VIII.

*That every Form of Government would not be proper
in every Country.*

“**LIBERTY** not being a fruit that every climate will produce, it is not suited to the taste of all people.” The more we consider this principle established by Montesquieu, the more we perceive its truth: and those who attempt

to controvert it, only afford fresh opportunity of finding proofs of its justice.

In all governments whatever, the public person consumes, but never produces any thing. From whence then comes the substance consumed by it? From the labour of its members! It is the overplus of individuals that furnishes the necessary supply for this public person: and we may therefore conclude, that the civil state can only subsist, while the labour of men produces more than their own occasions require.

This overplus must vary in different countries. In some it may be considerable, in others moderate, in others very trifling, and in some there may be none. This must depend on a genial or unfriendly climate; on the degree of labour which the ground requires to cultivate it; on the nature of its productions; on the state of population; on the greater or less consumption

consumption which the habits of the people make them require ; and on a variety of other circumstances, which must contribute to increase or prevent a surplus.

On the other hand, all governments are not of the same nature : some are more and others less devouring : and the difference arises from this principle, that public contributions become more or less oppressive, as they return again to the source from whence they were drawn, or are directed into other channels.

It is not by the amount of public taxes, that we must judge how far they are burthenome to the people on whom they are assessed, but by their return into the same hands, or their passing away to others. When the circulation is certain and regular, it does not signify how much, or how little, is paid by one estate to be returned back by the other ; for the people will be always rich, and the finances
 2 flourishing.

flourishing. On the contrary, let the taxes paid by the people be ever so trifling, if that trifle never flows back into their hands, the continual drain must exhaust them; and the state will be always poor, and the people beggars.

It is evident, from these truths, that, as the distance between the people and the government increases, the tributes paid by the former must become more oppressive. Thus, in a democracy, the burden of taxes is little felt: in an aristocracy more; and in a monarchy, their weight is excessive. The monarchical government is therefore suited to none but opulent nations; the aristocratic to those which are moderately rich, and extensive; and the democratic, to such states only, as are both small and poor.

In fact, the more we examine, the greater difference we find in this particular between free states and monarchies.

In

In the first, all is employed for purposes of general utility ; in the other, the monarch, increasing his own power by diminishing that of the public, employs them both in promoting his private interest ; and, instead of rendering his subjects happy for their sakes, he makes them miserable, and consequently dependent, for his own.

It must appear, from what has just been said, that there are in every country certain local circumstances, which have an influence on the temper and habits of the people ; and which seem to mark out the kind of government, best suited to the inhabitants and the soil. A sterile domain, which will not prove grateful to the hand that endeavours to reclaim it, must always continue an uncultivated desert, or be at best the abode of savages. The land which will yield only a bare subsistence, in return for the labour bestowed upon

upon it, must be the habitation of people in a state of nature; for civilization would be there impracticable. The ground which produces every thing in moderation under the hand of the industrious peasant, is a proper residence for a free people: while those fertile domains where soil and climate both conspire to produce the conveniences and luxuries of life with little pains of cultivation, seem formed to be the seat of monarchical government, in which the luxury of the prince may consume that part of the superabundant produce which can be spared from the occasions of his subjects; for it is better that the overplus should be absorbed by the government, than dissipated by private individuals. I know there are exceptions to this rule, but these very exceptions serve to confirm it; because they sooner or later produce revolutions which turn things into their natural course.

Q

We

We may always distinguish those general laws, which in the end prevail over every thing, from the particular causes that sometimes limit their effect. Though all the south should be converted into republics, and all the north become despotic states, it would not be less true, that, from the influence of climate, warm countries should be the seat of despotism, and cold ones the haunt of barbarous people; while civilization and good policy should dwell with the inhabitants of the intermediary regions. Though this principle be granted, the application of it may be disputed: it may be said that some cold countries are very fertile, and some temperate ones exceedingly barren: but this is an objection to the rule I defend, which can only weigh with those who view things superficially, and without considering how they are affected by each other. Before we
form

form an opinion on this subject, the labour, the power, the consumption, &c. as we find them in different countries, should be taken into the account.

Let us suppose that, of two districts equal in extent, the proportion of produce is as five to ten. If the inhabitants of the first consume four parts, and the inhabitants of the second nine parts of such produce, then the overplus of the one will be $\frac{1}{5}$, and the overplus of the other $\frac{1}{10}$, which shews an inverted proportion from that of their produce; the district which produced only five, giving a surplus double that of the district which yielded ten.

It is not of moment, however, to ascertain the exact proportion of produce; and I believe no person will deny that warm countries are infinitely more fertile than cold ones. But, for the sake of argument, let us suppose them equal in point of fertility; and admit that the same extent of

land will yield as much in England as in Sicily ; and in Poland as on the banks of the Nile. Further still to the south we should find Africa and the Indies ; but, if we were to go more northerly, there is nothing to be met with that affords a possibility of comparison.

Let us now enquire what difference there is in the cultivation, to make the ground afford this equality of produce in the different countries we have named.

In Sicily the husbandman need do no more than lightly rake the mould over the seed. In England what a tedious process is necessary, and with what infinite labour is it completed ! Of course, where a greater number of hands are required to procure the same quantity of produce from the same space of ground, the proportion of overplus must be much smaller.

We must also consider that the same
number

number of men do not consume so much in a warm as in a cold country. The climate obliges them to avoid excess in order to preserve health; and those Europeans who pursue there the habits they have formed in their own countries, perish of dysenteries and indigestions.

“ We are (says Chardin) carnivorous
“ as wolves in comparison of the Asiatics.

“ Some attribute the moderation of the

“ Persians to the scanty cultivation of

“ their country; but I, on the contrary,

“ believe that the country abounds less in

“ provision, because the inhabitants re-

“ quire so little. If their frugality (con-

“ tinues he) were an effect of the bar-

“ renness of the land, it would only be the

“ poor that subsisted on a scanty portion;

“ instead of that forbearance being, as it

“ now is, universal: and then, more or

“ less would be consumed in each pro-

“ vince according to its fertility, without

“ one general system of abstemiousness
 “ prevailing through all the empire.
 “ The Persians pique themselves greatly
 “ on their manner of living ; and say that
 “ it is easy to judge by their complexions
 “ how much more excellent their customs
 “ are than those of the Christians. In
 “ fact, their skins are delicate, smooth,
 “ and universally beautiful ; while those of
 “ their Armenian subjects, who live after
 “ the European manner, are rough and
 “ dark, and their bodies corpulent and
 “ heavy.”

The nearer we approach the Line, the
 less is required by the people to sustain
 them. In those countries that are at no
 great distance from it, there is very little
 animal food consumed. Rice, Indian
 corn, millet, cassavi, and other vegetable
 productions, are the ordinary aliment ;
 and there are millions of men in the In-
 dies whose maintenance may be estimated

at even less than a penny a day per head. Even in Europe we perceive a considerable difference between the appetites of the southern and northern inhabitants : a Spaniard will live eight days, for instance, on the dinner of a German. In countries where men are most voracious, the prevalent luxury is that of the table. In England, for example, you sit down to an entertainment composed of a profusion of viands, while in Italy they regale you with sweetmeats and flowers.

The luxury of dress is also very different in different places. In climates where the transition from one season to another is sudden and extreme, their garments are comfortable and simple. In places where ornament is the only object of dress, they study splendour more than utility ; and there even their garments are a luxury. Thus you see every day at Naples men splendidly arrayed in lace and

point, fauntering on the public walks towards Pausylippe.

The same remark holds good with respect to the buildings. Magnificence is the only object attended to in the houses of those who live where nothing is to be apprehended from inclemency of weather. At Paris and London you are lodged in warm convenient dwellings. At Madrid you find superb saloons; but their windows are not even made to shut, and they sleep in miserable chambers.

Another consideration, which must have great influence, and ought to be considered in our estimate of the produce of warm and cold climates, is, that the vegetables of the former are much more substantial and succulent. Why is pulse so much eaten in Italy, but because it is there wholesome, nourishing, and excellently tasted? In France, where the same productions are fed by little else but water, they

they nourish not, and are considered as nothing on the table. Yet in France they occupy as much ground as they do in Italy, and cost as much labour in the cultivation. It is known, from experiments, that the corn of Barbary, inferior in other respects to that of France, yields a greater proportion of flour; and that the French corn, in its turn, produces much more than the corn that grows further northward: from whence we may infer, that there is a natural and general gradation carried along from the Line to the Pole. Is it not a visible disadvantage, to have from the same quantity of production, so great a deficiency of nutritive virtue?

To the considerations already mentioned, another very important one must be added, which strengthens the supposition of there being a greater redundancy of produce in warm than in cold countries:

it

it is, that though the former are, from many concurring causes, able to support more inhabitants than the latter, yet they do not require so many, as the business of agriculture is there attended with so little toil. This must greatly increase the surplus; a circumstance always favourable to despotism. Besides, the more the same number of inhabitants are spread abroad, the more difficult it is for them to revolt; because they cannot concert any plan so quickly, or so secretly, as if they lived within a narrower limit: and it will also be more in the power of government to prevent their designs, and cut off their communication one with another. On the other hand, the usurpations of government become less practicable in proportion to the compressed situation of the people; for, when they are drawn within a smaller circle, their chiefs can deliberate together in their closets as securely as the prince in his

his council chamber; and the multitude may assemble as soon in the places they fix on, as the troops of government can in their quarters.

From all these circumstances it is evident that a tyrannical government is best secured by having its subjects dispersed, as it acts most forcibly at a distance; and its power, aided occasionally by support from the scattered members of its own body, is, like a great lever, efficacious in proportion to the distance it extends to*. That of the people, on the contrary, pos-

* This does not contradict what I have said, in the ninth chapter of the second book, on the inconveniency of great states. The authority of government is there considered as acting on the dispersed members of its own body; but, here, as directing its force against the subjects. Its scattered members would serve as points of support in this last instance, but in the former it could have no assistance. Thus, in one case, the length of the lever would weaken it, and in the other augment its powers.

sesses

lesses most force when it is most concentrated, and always evaporates by extension; like gunpowder scattered on the ground, which catches fire on'y grain by grain, without producing any joint effect. The country which is least populous is therefore the properest situation in which a tyrant can establish his throne, as the most ferocious beasts reign always in a desert.

CHAP. IX.

Of the Signs of a good Government.

THE question, "Which is absolutely the best government?" is too vague to be answered by one single reply; for such an enquiry must have as many replies as there are possible combinations in the positive and relative situations of states. If indeed it were asked what are the surest signs

signs of a nation being well or ill governed, an answer might be given; but men would, after all, form their judgment according to their own particular situations and opinions.

Thus, subjects esteem public tranquillity the greatest proof of a good government; citizens think it lies in the personal security of individuals. One extols the administration under which property is best protected; another thinks the persons of subjects ought to be the more immediate care of the state. This man is for the vigorous enforcing of the laws; the other wishes to see mercy tempering justice. One would have crimes punished; another is for preventing them. The man of ambition wishes to see his country the terror of all the neighbouring states; the moderate man would rather have it remain peaceable and unknown. One thinks every thing goes
on

on well, so long as money circulates freely ; another judges it more necessary that the people should have an ample supply of bread. When all these opinions are considered, can we draw from them a conclusive answer to the question, What is the surest sign of a good government ?

In short, men have no way of measuring moral quantities precisely ; and therefore, if they were even to agree upon the sign of a good government, their idea of the value that ought to be set upon it would be very various.

It is to me astonishing that people can so greatly mistake a sign which is so simple and so evident ; or that they can be so insincere as not to acknowledge that they know it.—What is the end of a political association ? Is it not the preservation and prosperity of its members ?—And what is the most certain sign that they are preserved,

preserved, and that they prosper? Is it not their numerous population?—We need seek no further for the sign in dispute; but pronounce that government to be infallibly the best (provided there is no particular circumstance to make it stand as an exception to a general rule) under which, without the employment of any improper means, without the naturalization of strangers, without receiving any new colonists, the citizens increase and multiply: and that to be the worst, under which they lessen and decay. Calculators, it is now your affair; count, measure, and compare them*.

CHAP:

* We may judge, by the same principle, of the ages in which human nature has enjoyed the greatest degree of prosperity. Too much admiration has been given to those in which letters and arts have flourished; and men have not sufficiently considered the object of their cultivation, or their fatal effect; *idque apud imperitos humanitas vocabatur, cum pars servitutis*

C H A P. X.

Of the abuse of government, and its propensity to degeneration.

BY the continual action of the private against the public will, the government, in

vitutis esset. Shall we never detect the gross selfishness which induces authors to disseminate such maxims? But, let them say what they will, it is false, that every thing goes well in a state, let its splendour be what it may, if the population decreases: and a reflecting mind will not admit, that, because a poet has a hundred thousand livres per annum, the age he lived in was the best that the world ever experienced. In order to judge which ages have been the most happy, we should less consider an appearance of tranquillity, and the repose of chiefs, than the well being of whole nations, and particularly of populous states.

A tempest may spread desolation through some cantons, but it seldom occasions a general famine. Revolts and civil wars may destroy many chiefs; but they may not prove real misfortunes to the people, who may be relieved from oppression by the struggle between

in every state, is making an unremitted effort against the sovereign. As this effort increases in a greater or less degree,

between those who seek to tyrannize over them. It is a long continuance in the same situation that makes prosperity or calamity real. When a whole nation lies crushed under the foot of despotism, it is then that the people perish; and it is then that their masters can hurl destruction amongst them with impunity. "*Ubi solitudinem faciunt, pacem appellant.*"

When the factions of the chief men in France had arisen to such a height as to agitate the kingdom, and the coadjutor of Paris judged it necessary to carry a dagger in his pocket every time he went into the parliament, the French people lived free and at ease; and Greece formerly flourished in the midst of such cruel wars as caused the blood to flow in torrents, and the country to be covered with men. It seems, says Machiavel, that amidst a scene of murders, proscriptions, and civil wars, our republic becomes more powerful; and the virtue, the wisdom, and the independence of the citizens are more successful in reinforcing the state, than all its dissensions are in weakening it. A little agitation gives new vigour to men's minds; and the prosperity of a nation depends much more on liberty than peace.

R

so

to the constitution becomes more or less altered: and there being no other will of the body, which, in resisting that of the prince, can be upon an equality with it in point of power, the sovereign must be at length oppressed by the prince, and the social contract broken. This innate vice tends, from the birth of the body politic, to destroy it; as old age and death do in the human frame.

There are two general ways by which a government degenerates: when it contracts itself; or when the state dissolves.

Government contracts when it changes from a greater to a smaller number, as in its passage from democracy to aristocracy, and from aristocracy to monarchy; and this is the course it is naturally inclined to pursue*. If it were to take a retro-

* The slow and progressive formation of the republic

retrograde direction, and proceed from the smaller to the greater number, it might be

public of Venice in its canals, offers a notable example of this succession: and it is very astonishing that, after a space of more than twelve hundred years, the Venetians seem to be still only in the second stage of gradation which commenced in 1198. As to the ancient Doges with which they are reproached, though they may be called the *signorini della libertà Veneta*, it is evident they were not their sovereigns.

I shall in all probability be told, that the Roman republic pursued the very retrograde course I have termed impracticable, by passing from monarchy to aristocracy, and then to democracy: but I cannot agree with those who think they did so.

The first establishment of Romulus was a mixed government, which degenerated soon into despotism. From some particular causes the state perished before its time; as an infant dies before it becomes a man.

The expulsion of the Tarquins was the true epocha of the birth of the Roman republic. But it did not then acquire a consistent form, as the patrician dignity was not abolished; and of course the establishment was only half completed: for that kind of hereditary aristocracy, which is the worst of all legal administrations,

be said to relax; but this inverted progress is impracticable.

In

tions, maintained a continual contest with the democracy; and the Roman form of government remained uncertain and wavering, and never was fixed, as Machiavel has proved, until the establishment of the tribunes: then only they had a settled government, and a true democracy. In fact, the people was then not only the sovereign, but also the magistrate and judge; and the senate was no more than a subordinate tribunal, for tempering or concentrating the government: while the consuls themselves, although patricians, although the first magistrates, although the generals, and endowed during the time of war with absolute authority, were no more at Rome but presidents of the people.

The government was then soon found to take its natural bent, and tend strongly towards aristocracy. The patrician rank being abolished, as it were, of itself, the aristocracy was no longer seated in the body of patricians, as it is at Venice and Genoa; but in the body of the senate, composed of patricians and plebeians; and even in the body of tribunes, when they began to assume an active power. For words make no difference in things: and when the people had chiefs who governed for them, under whatever
name

In fact, government never changes its form but when some failure in its parts leaves it too weak to support itself: and if it becomes still more relaxed by the act of enlarging itself, its force is annihilated, and it can subsist no longer. It is then necessary to return, and compress its parts, or the state which it sustains will fall into ruin.

The dissolution of a state can happen only in two ways.

First, when the prince does not adhere to the laws in the administration; and, secondly, when the prince usurps the name these chiefs were known, they always formed an aristocracy.

The abuses of the aristocracy gave birth to the civil wars, and to the Triumvirate. Sylla, Julius Cæsar, and Augustus became real monarchs; and in fine, under the despotism of Tiberius, the state was dissolved. The Roman history is therefore so far from falsifying my principle, that it confirms it.

R 3

sovereign

sovereign power. A very extraordinary change takes place in consequence of either of these events; for the state, not the government, contracts itself; perhaps I should rather say dissolves, and that another is formed from its ruins. This new state is composed entirely of the members of government; who, in their new capacity, bear no other relation to the rest of the people, than that of their tyrants and masters. So that, the moment the government usurps the sovereignty, the social pact is broken; and all the mere citizens re-entering by right into their natural liberty, are from that time constrained by force, but not obliged by duty to obey.

The same thing happens when the members of government usurp separately the power which they ought to exercise only as a body; a circumstance which, without infracting the law, occasions
great

great disorder: for then there are, as it were, as many princes as magistrates; and the state, no less divided than the government, must perish, or change its form.

When the state is dissolved, the abuse of government, whatever it is, takes the common name of *anarchy*. But, to speak more distinctly, democracy degenerates into *ochlocracy*, aristocracy into *oligarchy*; and I should add, that monarchy always changes into *tyranny*: but the term *tyranny* is equivocal, and requires an explanation.

In the vulgar sense of the word, a tyrant is a king who governs with violence, and without any regard to justice or the laws. In the exact sense, a tyrant is an individual who arrogates the royal authority without having a right to it. It was to persons of this last description that the Greeks applied the name; and they used it indifferently to good and bad princes

whose authority was not lawful*. Thus *tyrant* and *usurper* are synonymous terms.

That I may apply different names to different things, I shall call the usurper of royal authority a *tyrant*, and the usurper of sovereign power a *despot*. The tyrant, then, is he who takes upon himself, against the law, to govern according to the law; the despot is he who sets himself above even the law. Thus the tyrant may not be a despot, but the despot is always a tyrant.

* *Omnes enim et habentur et dicuntur tyranni, qui potestate utuntur perpetua in ea civitate qua libertate usque est.* Corn. Nep. in Miltiad. It is true that Aristotle (*Mor. Nicom.* l. viii. c. 10) distinguishes the tyrant from the king: the former, he says, reigns only to serve himself; the latter only to serve his subjects. But the Greek authors in general have used the word Tyrant in another sense; as appears particularly by the Hieron of Xenophon: and indeed, from Aristotle's description of a king, we must conclude there has never existed one from the commencement of the world.

CHAP.

C H A P. XL.

Of the Death of the Body Politic.

SUCH is the natural and inevitable proneness of even the best constituted governments to warp from their original form, that none have ever escaped the evil; and, since Sparta and Rome have perished, what state can expect to last for ever? If we are disposed to form an establishment, let us seek to render it durable, but never hope to make it eternal: for those who would succeed in any undertaking must not attempt impossibilities, or flatter themselves that they can give that permanence to the works of man which human things are incapable of.

The body politic, as well as the human body, begins to die from its birth, and bears within itself the causes of destruction; but the term of existence in
either

either will be longer or shorter, according to the strength or weakness of the constitution. The constitution of man is the work of nature, that of the state is the production of art; and though it does not, consequently, depend on man to ensure himself a long life, it depends on him to give the longest possible existence to a state, by giving it the best possible constitution. Yet, sooner or later, the most vigorous must decay, and sink under the hand of time, unless some accident should occur to precipitate its ruin.

The principle of political life is seated in the sovereign authority: the legislative power is the heart of the state, and the executive is the brain which gives motion to all the parts. The brain may become paralytic, and the body retain life; as a man may exist in a state of folly; but when the heart ceases to perform its functions, death must immediately ensue.

It is not by the law that the state subsists, but by the legislative power: for the law of to-day would not hold in force to-morrow, if the non-repeal of it was not considered as the tacit consent of the sovereign to its continuance: for whatever has been declared to be the general will, continues to be regarded as such until it is revoked.

Why then, it may possibly be asked, is so much respect paid to the laws? For the very reason I have just mentioned,—because it is believed that nothing but the excellency of the wills of those who went before us could have so long preserved them in force; for if the sovereign had not always found them salutary, they would have been undoubtedly revoked. This is the principle upon which the laws in every well-constituted state acquire new force continually: and our respect for antiquity makes them every day more venerable.

venerable. Whenever the laws are enfeebled by age, we may be assured that the legislative power, or heart of the body politic, can no longer exercise its functions; and that the state must expire of course.

C H A P. XII.

How the Sovereign Authority is maintained.

THE sovereign having no other force but the legislative power, acts only by the laws; and the laws being only the authentic acts of the general will, the sovereign can never act but when the people are assembled. Some will perhaps think that the idea of the people assembling is a mere chimera: but, if it is so now, it was not so two thousand years ago; and I should be glad to know whether men have changed their nature.

The

The limits of possibility, in moral things, are not so confined as many are apt to suppose them: it is our weakness, our vice, and our prejudice, that narrow the circle. A noble mind will bestow its generous confidence, while an abject one distrusts the most auspicious appearance; and it is no unusual thing to see the wretch, who is no less a slave in inclination than condition, reply with a sneer of contempt when we talk to him of liberty.

By what has been done, we may judge what may again be accomplished. I shall not speak of the Grecian republics; but the republic of Rome I conclude to have been a very great state, and the city of Rome a very large city. By the last *census* there appeared to be in Rome four hundred thousand citizens that bore arms; and the last time the inhabitants of the empire were numbered, there were found
to

to be above four millions of citizens, without including foreigners, women, children, or slaves.

What difficulty should we conclude there must be, in assembling such an immense multitude frequently in the Capitol! And yet there passed few weeks without the people of Rome being assembled; and they sometimes met several times in a week: for they not only exercised the rights of the sovereign, but some part of those of the government. They considered of certain affairs, they judged certain causes; and came almost as often to the public assembly in the character of magistrates, as in that of citizens.

If we recur to the more remote ages, we shall find that the greater part of the ancient governments, even monarchical ones, such as those of the Macedonians and the Franks, had the same general councils; which proves beyond a doubt that such assemblies

assemblies of the people are possible, and the consequence of their so assembling must in my opinion be good.

C H A P. XIII.

Continuation.

IT is not sufficient for an assembly of the people to fix the constitution of the state by sanctioning a body of laws: it is not enough that they should establish a perpetual government; or provide rules, once for all, for the election of magistrates: neither will their meeting occasionally, when some great event requires it, be found effectual, unless they have their certain stated times of assembling: and that at such times, and such only, when they shall be legally convoked, either ordinarily or extraordinarily, according to law, those institutions which it is judged

judged expedient to abolish or postpone, may be abolished or postponed by the general consent of the people.

All assemblies of the people which shall not have been convoked by the magistrates appointed for that purpose, and according to the forms directed by law, must be considered as illegal, and the acts of such an assembly can be of no effect: for, to make any meeting legal, the order for assembling must issue from the law.

With respect to the frequency or infrequency of these established meetings of the people, they must depend on so many considerations, that it would be impossible at once to determine the point precisely. This is however necessary to be observed; that, the more powerful the government is, the more frequently the sovereign ought to come forward.

Those who are disposed to grant the
eligibility

eligibility of this system for a single city, may yet enquire how would it be practicable in a state which consisted of many cities? and whether I would, in that case, have the sovereign authority divided, or centered in one single city, to which all the others must be subject?

I reply, that neither one or the other should be done. In the first place, the sovereignty is simple and stands alone, and cannot be divided without being destroyed. Secondly, no city, any more than a nation, can be lawfully subjected to another, because the essence of the body politic consists in the perfect union of obedience and liberty; and because the words *subject* and *sovereign* are the identical correlatives whose meaning is united in the word *citizen*.

I would answer still further, and add, that it is always wrong to unite many cities in one; and that whoever makes

S

such

judged expedient to abolish or postpone, may be abolished or postponed by the general consent of the people.

All assemblies of the people which shall not have been convoked by the magistrates appointed for that purpose, and according to the forms directed by law, must be considered as illegal, and the acts of such an assembly can be of no effect: for, to make any meeting legal, the order for assembling must issue from the law.

With respect to the frequency or infrequency of these established meetings of the people, they must depend on so many considerations, that it would be impossible at once to determine the point precisely. This is however necessary to be observed; that, the more powerful the government is, the more frequently the sovereign ought to come forward.

Those who are disposed to grant the
eligibility

eligibility of this system for a single city, may yet enquire how would it be practicable in a state which consisted of many cities? and whether I would, in that case, have the sovereign authority divided, or centered in one single city, to which all the others must be subject?

I reply, that neither one or the other should be done. In the first place, the sovereignty is simple and stands alone, and cannot be divided without being destroyed. Secondly, no city, any more than a nation, can be lawfully subjected to another, because the essence of the body politic consists in the perfect union of obedience and liberty; and because the words *subject* and *sovereign* are the identical correlatives whose meaning is united in the word *citizen*.

I would answer still further, and add, that it is always wrong to unite many cities in one; and that whoever makes

S

such

such a union, must not hope to avoid the inconveniences natural to the act.

It would be absurd to speak of the abuses prevalent in great states, to those who would wish to form only small ones; but it is proper to consider, how sufficient force can be communicated to little states, to defend them from the attacks of great ones? The reply here is, that they must follow the steps of the Grecian cities, which formerly resisted the power of a mighty king; and by which Holland and Switzerland were enabled more recently to repel the House of Austria.

If it is impossible to reduce a state within proper limits, there is still one measure to be adopted—that of not allowing a capital, or settled seat of government, but moving it in rotation to every city; and assembling the states of the country alternately in the same manner.

In a word, let every part of the territory be peopled equally; let the same rights be extended to all, and spread life and abundance through every quarter: for by these means the state will become in time the strongest and the best governed that the nature of things will admit of. Remember, likewise, that the houses raised in towns are built upon the ruins of those which once ornamented the fields; and that every palace which lifts its stately height in the capital, has probably destroyed a multitude of comfortable dwellings.

C H A P. XIV.

Continuation.

AT the moment that the people are legally assembled as a sovereign body, all the jurisdiction of government ceases;

S 2

the

the executive power is suspended; and the person of the least citizen is as sacred as that of the highest magistrate; because the latter can be no longer the representative of that body which no longer exists to be represented. Most of the tumults which happened in the *comitia* at Rome, were owing to their being unacquainted with, or at least neglecting, this rule; by which the consuls would have been only presidents of the people, the tribunes simple orators*, and the senate absolutely nothing.

These intervals of suspension, when the prince acknowledges, or ought to

* The word *orator* is used here in the sense the English parliament affix to it.

A resemblance in the two offices of consul and tribune occasioned, at these public meetings, a perpetual conflict between those who held them; which would have been prevented, if all jurisdiction had been suspended, according to this necessary rule.

acknow-

acknowledge, an actual superior, have always been formidable to that power: and these assemblies of the people, who are the shield of the body politic, and the bridle of the government, have ever been the terror of the chiefs, who have not failed to employ all their cares and artifice, and to raise every possible objection and impediment, to prevent the citizens from meeting. When the latter are avaricious, pusillanimous, and base, and are more desirous of repose than liberty, they cannot long withstand the strong efforts of government: the sovereign authority vanishes in the end; and thus most cities perish by a premature fate.

But between the sovereign and an arbitrary government there is sometimes an intermediary power introduced, which it is necessary to mention.

C H A P. XV.

Of the Deputies or Representatives of the People.

AS soon as men cease to consider the service they owe the state as the principal duty of their lives, and rather choose to serve it with their purse than their persons, we may pronounce the nation to be on the very verge of ruin.

Are the citizens called upon to march into the field for the defence of their country? They pay soldiers for the purpose, and depend upon them. Are they summoned to deliberate on affairs of the state? They nominate deputies, and depend upon them. And thus, in consequence of money and idleness, they have soldiers to serve the nation, and representatives to sell it.

It is the hurry of commerce and of the arts, it is the greedy thirst of gain, and
that

that effeminate softness which makes men consult their own ease and convenience before their real welfare, that occasion this commutation of money for personal service, and incline the citizens to purchase ease by a part of the profits they acquire. Give wealth to a nation, and it will quickly forge them chains—is a maxim that has too much truth in it. The word *finance* is a term of slavery: it is unknown in the true *city*; for, in a state perfectly free, the citizens do all with their arms, and nothing with their money; and, instead of purchasing exemption from their duty, they pay the expence of fulfilling it with cheerfulness. My ideas on this subject are indeed so different from those commonly received, that I even think the *corvées*, or personal service, is less an infringement upon liberty than taxes.

The better a state is constituted, the

greater must be the pressure of public affairs on the time and attention of the citizens : but then their private concerns are fewer ; because each individual shares so largely in the general prosperity and happiness, that he has not so much occasion to seek for either in private resources.

In a well-conducted city, each member flies with joy to the public assemblies : but, under a bad government, none are disposed to bend their way thither ; because none are interested in proceedings where they find that the general will, and consequently the desire of promoting the general welfare, are no longer prevalent ; and every man turns his attention to his own domestic affairs. In short, good laws lead on to better, and bad ones seldom fail to generate still worse ; and when once you hear the citizens say, when speaking of public concerns, *What*

is it to me ? you may give over the state for lost.

It was the declination of patriotism, the activity of private interest, the immense extent of dominions, the increase of conquests, and the abuses of government, that suggested the expedient of sending deputies to represent the people in the assemblies of the nation. These representatives are the body to which, in a certain kingdom, they have dared to give the name of *tiers-état* (third estate); as if the private interest of the two other orders deserved the first and second rank, and the public interest of the people should be considered only in a third degree.

The sovereign cannot be represented, for the same reason that it cannot be aliened : its essence is the general will ; and that will must speak itself, or it does not exist. There is, therefore, nothing
inter-

intermedial between its being, which it only enjoys while in action, and its not being; and that which is not, can have no representative. The deputies of the people are of course not their representatives; they can only be their commissioners, and as such are not qualified to conclude upon any thing definitively. No act of theirs can be a law, unless it has been ratified by the people in person; and without that ratification nothing is a law. The people of England deceive themselves, when they fancy they are free: they are so, in fact, only during the interval between a dissolution of one parliament and the election of another; for, as soon as a new one is elected, they are again in chains, and lose all their virtue as a people. And thus, by the use they make of their few moments of liberty, they deserve to lose it.

The idea of representatives is modern,
and

and derived its origin from the feudal government : a system so absurd and iniquitous, that, while it degrades human nature, it throws dishonour on the name of man. The people never had representatives in the republics, or even in the monarchies, of ancient times; and the word was not known amongst them.

It is very singular, that at Rome, where the tribunes were so powerful, they never pretended any right to take upon them the functions of the people; and that, in the midst of such a multitude, no attempt was ever made to publish a law which had not been ratified by the will of the people personally given : though we may judge how embarrassing that measure must have been, by what happened in the time of the Gracchi, when the concourse was so great, that part of the citizens were obliged to give their suffrages from the roofs of the houses.

Where

Where the great objects of right and liberty fill the minds of men, little regard is paid to any inconveniency that may occur. This was the case with the wise Romans, who acted on all occasions with proper caution. Thus they permitted the exercise of certain rights to their lictors, which their tribunes dared not exert, because there was no danger that the former should ever presume to represent them.

It is true, the tribunes did, in certain instances, and in some degree, represent the Roman people; and, in order to explain how they represented them, we must imagine how the government represents the sovereign. The law being only the declaration of the general will, it is clear that the people cannot be represented in their legislative capacity; but they may, and must be, in the executive power, which is only their strength applied

applied to enforce the law. From this we perceive, on examining into the true state of things, that very few nations have any laws. But, with respect to the Roman tribunes, it is certain that no part of the executive power pertained to them: neither could they represent the people of Rome in any degree in consequence of the rights annexed to their offices; they could only do so by usurping those of the senate.

Amongst the Greeks, whatever the people had to do, they did personally, and were continually assembled for that purpose. This they were enabled to be by the mildness of their climate, their exemption from the vice of avarice, and their having a sufficient number of slaves to perform all inferior offices; by which means they were unengaged by any private concerns, and at leisure to give their whole time and attention to the important business

business of liberty. But how can those people, who do not enjoy the same advantages, exercise the same rights? In our rougher climates we have more wants *. Six months of the year the weather will not permit men to remain in an open situation. Our dull languages cannot be understood at a distance. All these considerations are, however, trifling, compared with two which depend entirely on ourselves: the one is, that we pay more regard to our private gains than to the preservation of our liberty; and the other, that we are more afraid of becoming poor, than of being enslaved.

Here some men may possibly exclaim, "What! liberty depend on servitude, "the servitude of slaves for its sup-

* By adopting in cold countries the luxury and refinements of the orientals, we are sure to adopt their chains; nay, indeed, the one submits us to the other more necessarily than it does them.

"port?"

“port?” It is not impossible. The two extremes may act upon each other. There is no institution without its attendant inconveniencies, nor is that of civil society exempt from them. There may be situations so peculiarly unfortunate, that the liberty of some men cannot be secured but at the expence of the freedom of others, and where the citizen can only be absolutely free by his slave being absolutely subjugated. Such was the situation of Sparta. But as to you, you people of the present day, though you have no slaves, you are yourselves enslaved; and purchase their liberty by the sacrifice of your own. Forbear then to exult in a preference which discovers, in my opinion, more of indolence than humanity.

I mean not to argue, by this, that there is a necessity for having slaves, or that the right of slavery is legal: so far from it,
that

that I have already proved the contrary. I only explain the reason why the moderns, who believe themselves free, have deputies to represent them, and why the ancients had them not. Be the matter of slavery as it will, the moment that a people resign their power into the hands of representatives, they are no longer free; they cease to be a body.

After having thoroughly investigated the subject, I do not see how it is possible for the sovereign to preserve henceforth amongst us the exercise of its right, unless the *city* be extremely small; and then the question is, "If it be extremely small, will it not be subdued?" I answer, that it may not; and I shall explain presently * how the external power

* This was the object that I proposed to myself when I undertook my work; and, in pursuing it, there was a necessity for treating of all the different external

power of a great nation, and the easy police, and good order, of a small state, may be united.

C. H A P. XVI.

That the Institution of Government is not a Contract.

THE legislative power being once well established, the point is to establish the executive power: for this last, whose operations are confined to acts against individuals, as not sharing the essence of the legislature, is naturally separate.

If it were possible that the sovereign, considered as such, could exercise the external relations, before I came to the consideration which must combine them all. This system is entirely new, and the principles of it are not yet established.

T executive

executive power, the right, and the deed, would be so confounded, that there would be no means of distinguishing what was or was not law; and the body politic, thus thrown into a state of confusion, would soon become the prey of that violence which it was instituted to suppress.

The citizens being all equal by the social contract, whatever all may do, all may prescribe; while no one has a right to require another to do what he does not himself: and it is properly this right of prescription, so indispensably necessary to the life and motion of the body politic, that the sovereign delegates to the prince at the institution of government.

Many have pretended that the act of this establishment is a contract between the people, and the chiefs, who are the other party in the act; and that this contract stipulates between the two parties the conditions on which the one is obliged

liged to command, and the other to obey. This would be a strange manner of contracting, if there were indeed any contract. But let us see how the opinion of its being one is supported.

In the first place, we know that the supreme authority can neither modify or alien itself, and that to limit it would be to destroy. It is therefore absurd and contradictory to suppose that the sovereign should give itself a superior; and in obliging itself to obey a master, it certainly would confer on that master the full liberty to be so.

Besides, it is evident that a contract made between the people, and such and such particular persons, would be a private act; from whence it follows that this contract could not be a law or an act of the sovereignty, and that of consequence it could not be legal.

We see further that the contracting

CHAP.

T 2

parties

parties would be under the law of nature only, and without any guarantee of their reciprocally performing the engagements; a circumstance repugnant to the usage of the civil state. Besides, as the party which is armed with power is always enabled by it to execute, it is just as inconsistent to suppose the act in question a contract, as to suppose that one man contracted with another when he said to him, "I give you all my property, on condition of your returning me just as much as you please of it."

There is but one contract in the state; I mean that of the association; and all others are excluded by it: for no public contract could be made which must not be a violation of the first.

C H A P. XVII.

Of the Institution of Government.

OF what description then must we deem the act by which government is instituted?

I shall remark, in the first place, that this act is complex, or composed of two others; the establishment of the law, and the execution of the law.

By the first, the sovereign enacts that there shall be a body of government established under such or such a form, and it is clear that this act is a law.

By the second act the people name the chiefs who shall be charged with the government thus established. But this nomination being an act relating to individuals, and therefore a private act, is not a second law, but only a consequence of the first, and a function of government. The diffi-

culty here is to understand how there can be an act of government before government exists ; and how the people who are but sovereign and subjects, can become prince or magistrate on certain occasions.

Here we discover one of the astonishing properties of the body politic, by which it reconciles operations so apparently contradictory : for in this act the sovereign is suddenly transformed into a democracy, in such a manner, that, without any sensible change, and merely by a new relation of all with all, the citizens, become magistrates, pass from general acts to particular acts, and from the law to the execution of it.

This change of relative situation is not a speculative subtilty, of which there is no example in practice : in the English Parliament, the House of Commons resolves itself on certain occasions into a grand committee, for the better discussion of affairs,
and

and becomes a simple commission of that very sovereign court which it formed but the moment before. In this character of a committee, it afterwards reports its proceedings to itself as the House of Commons, and deliberates anew, under another title, on what it has resolved on as a committee.

Such is the advantage peculiar to a democratic government, that it can establish any institution by a simple act of the general will ; after which that provisional government remains as it is ; or establishes, in the name of the sovereign, the government prescribed by law, according to the regulation determined on, and yet is conformable to rule in both.

It is not possible to institute a legal government in any other manner, or without violating the principles heretofore established.

C H A P. XVIII.

*The Means of preventing the Usurpations of
Government.*

THE result of these explanations confirms my assertion in the ninth chapter, that government is not a contract, but a law; that the depositaries of the executive power are not the masters of the people, but their officers; that they can establish and destroy them when they please; that obedience is promised by the people, without any contract being entered into; and that, in discharging the functions imposed upon them by the state, the members of the executive body only fulfil their duty as citizens, without having any right to dispute about the conditions.

When it happens therefore that the people establish an hereditary government; whether it be monarchical, in
one

one family, or aristocratical, in one order of citizens ; it is not an engagement which they make, but a provisional form given to the administration, until it shall please the sovereign to order otherwise.

It is true that such changes are always dangerous ; and that the established government should never be touched, except when it becomes incompatible with the public welfare : but this circumspection is a maxim of policy, and not a rule of right ; and the state is no more obliged to continue the civil authority in the hands of the same chiefs, than the military in those of the same generals.

In proceedings of this nature, too much caution cannot be observed in adhering rigorously to all the requisite formalities ; in order to distinguish with certainty, between a regular legal act, and a seditious tumult ; and to know what is the general will of all the people, and what the clamours

mours of a faction. When the latter is found to have any influence, the executive power ought not to yield, further than is absolutely and indispensably required by the strict letter of the law : and this obligation of opposing what is imagined to be the scheme of a factious party, gives great opportunity for the prince or executive power to maintain its situation in spite of the people, and yet avoid the appearance of usurpation : for under colour of only exerting rights to their full extent, it may easily go beyond the line ; and, pretending to have the public tranquillity alone in view, prevent the meeting of those assemblies intended for the re-establishment of good order. The silence which the people may be thus compelled to observe, and the excesses which government may at the same time privately encourage, may become powerful instruments for furthering the schemes of despotism ;

despotism : the former may be urged as a proof that the people approve the conduct of administration, because they do not complain of it; and the latter employed as a means of drawing punishment on those, who have ventured to speak too freely of its evident tendency.

It was by such kind of practices that the *Decemvirs* at Rome, who by the laws of their institution were to be elected annually, got their term extended to another year; and in that interval they, by preventing the assembling of the *Comitia*, endeavoured to perpetuate their power.

The same ready means are employed by all the governments in the world; who, when once they are armed with the public force, are sure to usurp, sooner or later, the sovereign authority.

The periodical assemblies of which I have already spoken, are the most proper means to prevent, or at least retard, this

evil;

evil; but then they must be so ordered as to assemble of course at the stated period, without being formally convened: for in that case the prince cannot prevent their meeting, without openly declaring himself a violator of the laws, and an enemy to the state.

At the opening of these assemblies, whose object is the maintenance of the social treaty, two questions should always be proposed, and never on any account omitted; and the suffrages should be taken separately on each.

The first should be—"Does it please the sovereign to preserve the present form of government?"

And the second—"Does it please the people to leave the administration with those who are at present charged with it?"

I presume, in proposing these questions (what I think I have fully demonstrated), that there is not in a state any one fundamental

damental law which cannot be revoked, not even the social pact : because if all the citizens should assemble with one common accord for that purpose, there can be no doubt but it would be legally broken.

GROTIUS thinks that even each citizen can renounce the state of which he is a member ; and, resuming his natural liberty, and his property, withdraw himself from the country* : and it would be absurd to suppose that all the citizens united could not do that which might be done by each of them separately.

* But this renunciation must not be made, and the renouncer withdraw, in order to elude his duty, or escape serving his country at the moment it has occasion for his service. His flight then would be a criminal act, and punishable as such : it would not be retreat, but desertion.

END OF THE THIRD BOOK.

OF THE
SOCIAL CONTRACT;

OR
PRINCIPLES OF POLITICAL RIGHT.

BOOK THE FOURTH.

CHAP. I.

That the general Will cannot be destroyed.

IF you unite many men, and consider them as one body, they will have but one will; and that will must be to promote the common safety and general well being of all.

While

While this union of men and of mind continues, all the springs of the political machine will be vigorous and unembarrassed; the maxims by which they are regulated will be wise and comprehensible; and there will be no jarring interests to destroy the general harmony, by creating discord amongst the parts. The common good of all, will then be the grand object of attention; the means of pursuing it will be evident; and nothing necessary but a sound understanding to perceive in what that good consists: for peace, union, and equality, are enemies to subtle politics; and men of purity and integrity are, from their attachment to what is plain and honest, not easily led astray by the lures and deceptions of deep politicians: in a word they have not cunning enough to be dupes. Men of this description despise, as all men ought to do, the refinements of those nations

tions which are rendered miserable by so much art and mystery.

That these two characteristics of a politician are not only often injurious, but always unnecessary, may be proved by the example of the happiest people in the world ; among whom a company of peasants, sitting under the shade of an oak, conduct the affairs of the nation with a degree of wisdom and equity that do honour to human nature.

A state thus governed by chiefs who disdain the dark refinements of policy, requires but very few laws : and whenever it becomes necessary to promulgate new ones, the necessity is perceived universally ; and he who proposes them, only does what every other citizen knows to be expedient : of course, neither eloquence or address is required, to obtain the general concurrence in a measure which each person had already resolved to

to adopt, so soon as he should find his fellow citizens convinced as well as himself of its utility.

What leads our political reasoners astray on this point, is, that they consider only those states which have been ill constructed originally ; and suppose, because it would be impossible to pursue in them the system of simple policy I recommend, that it must be equally impracticable every where. But they are mistaken in this opinion : and while in London or Paris an artful impostor, or a man of insinuating eloquence, can persuade the people to believe the most ridiculous absurdities, even another Cromwell, were he to start up at Bern, would be hooted by the citizens ; and a second duke of Beaufort experience at Geneva a discipline he might not greatly admire.

When the social bond once begins to relax ; when private interest takes the

U

lead

lead in public affairs ; and small associations have an influence on the resolves of the people ; the general interest of the state finds many opposers ; and the general will, now destitute of unanimity, is no longer the will of all, but every thing is contested, and the best advice never adopted without much dispute and opposition.

In fine, when a state upon the brink of ruin supports only a vain illusive form, and the social bond no longer unites the hearts of the people ; and when the sacred name of public good is made use of to cover the basest views of private interest ; then the general will is silenced, and every thing being directed by secret influence, the citizens give their suffrages no more than if the state had never existed. Decrees of the most iniquitous tendency are then passed, to which the name of laws is falsely given, and every thing

concur in promoting the triumph of despotism over an unhappy nation.

But it does not follow that the general will is annihilated, or yet corrupted : that will remains always constant, unalterable, and pure ; but it is rendered subordinate to other wills, which domineer over, and keep it mute.

In this state of affairs, though each individual detaches his interest from the general interest of all, yet he finds it impossible to separate them entirely : but his part of the common ill appears trifling to him, when balanced against some private advantage which he has in view. This particular object only excepted, he is in every point as solicitous as any other member to promote the common welfare on his own account ; and even by selling his suffrage he does not destroy his own general will ; he only eludes it. The fault which such a man

commits, is that of changing the state of the question; and instead of supposing, when he is about to give his suffrage, that he is asked, *Is it advantageous to the state that such a motion should pass?* he presumes the question to be, *Is it advantageous to such a man, or to such a party, that such a motion should pass?* Thus the law for regulating the public assemblies is not so much intended to maintain there the general will, as to enforce the full and clear repetition of the question on which that will is to determine.

I could make many reflections on the right of voting in all acts of sovereignty; a right which nothing can deprive the citizens of; and also upon that of proposing and discussing, which government is always particularly careful of confining to the members of its own body. But this important subject requires a separate treatise, as it cannot be comprehended in that I am now writing.

CHAP.

C H A P. II.

Of Suffrages.

IT is evident, from what has been said in the preceding chapter, that the manner of conducting public affairs is the best criterion by which to judge of the manners and health of the body politic. In proportion to the degree of concord which reigns in the public assemblies; that is, the nearer the suffrages given there approach to unanimity, the more the general will predominates: while tumults, dissensions, and long debates declare the ascendancy of private interests, and the declining situation of the state.

This appears less evident when two or more orders enter into the constitution, as the Patricians and Plebeians did in Rome; where even in the most glorious

days of the republic, their quarrels frequently disturbed the *comitia*. But this is rather a seeming, than a real exception: for there were, by an inherent vice in the constitution, two estates as it were in one; and this union might give rise to dissensions of a less alarming nature than those which exist where there is but one estate. But in fact even in the most tumultuous times at Rome, the public meetings of the people were always tranquil, and there was always a great majority of suffrages when the senate did not mix with them: for the citizens having but one interest, the people had but one will.

When a state has rolled on to the opposite extremity of the circle; that is, when it has attained the utmost point of degradation, unanimity of voice returns; for the citizens are then so sunk in servitude, that they have neither liberty or will. Fear and flattery then make them change
their

their votes into acclamations; and, instead of resolving, they adore, and curse at the same time the object of their adoration. Such was the infamous manner of voting in the senate under the emperors, where these acclamations were sometimes made with ridiculous precaution. Tacitus tells us, for instance, that, in the reign of Otho, the senators loaded Vitellius with execrations, and at the same time made a tumultuous noise, to prevent its being known (lest he should afterwards become their master) what each person said against him.

From these various considerations, maxims may be drawn for regulating the manner of collecting the suffrages, and determining the sense of a public assembly; the manner of which must vary according as the general will is more or less easy to ascertain, and the state more or less decayed.

There is one law only which requires the unanimous consent of all the people; I mean the social pact: for the civil association is the most voluntary of all acts. Before that contract is made, every man being free and master of himself, no person can under any pretence whatever subject him without his consent: for to affirm that the son of a slave is born a slave, is to pronounce that he is not born a man.

Should there be any men who oppose the social compact, their opposition will not prevent it, but only hinder their being included; and they will consequently be considered as foreigners, and not citizens.

When the state is instituted, the consent of all those who reside in it is supposed: for whoever inhabits a territory, gives a tacit promise that he will submit
to

to the laws by which it is governed * : and, except in the first contract, a majority of suffrages is sufficient to give validity to any law. This is a consequence of the contract itself.

But it may be asked, how can a man be free, and yet forced to conform to the will of others, in which his will does not concur ? or is it consistent with liberty for men to submit to laws which they have never consented to ? I answer, that the question is not fairly stated : for the citizen consents to all the laws ; to those which are passed in opposition to his will, and even to those which sentence him to punishment, if he violates any one of them.

* This must always be understood of a man in a state of perfect freedom ; because otherwise his family, his property, or the want of an asylum to fly to, and also necessity or force, may detain an inhabitant against his will ; and then his sojourn does not suppose his consent, either to the contract, or to the violation of the contract.

The

The will of all the members of the state is the general will ; and it is by that they are citizens and free *.

When any law is proposed in the assembly of the people, the question is not precisely to enquire whether they approve the proposition or reject it ; but if it is conformable or not to the general will, which is the will of the assembly : each citizen then gives his suffrage aloud ; and, after counting the voices, the majority is considered as the general will. When therefore the greater number of voices carries the motion which I opposed, it only proves to me that I was mistaken, and that what I believed to be the gene-

* At Genoa we see inscribed over the gates of their prisons, and on the chains affixed to their galley slaves, the word *Libertas* : and this application of it is noble as well as just. In fact, it is only the bad people in every state that hinder the citizens from being free ; and any country where all such were chained to the oar, would be the seat of perfect liberty,

ral

ral will was not so: nay, that if my vote had secured a majority on my side, I should have done what I was not willing to do, by acting contrary to the general will, and consequently that I should not have been in a state of freedom. This is indeed supposing that all the characteristics which mark the general will are evidently seen in the plurality of voices; and when that ceases to be the case, whatever measures may be adopted, there is an end of liberty.

In shewing heretofore how private wills are often substituted for the general will in public resolutions, I have shewn the most practicable means of preventing that abuse; and I shall speak again upon the subject in future. With regard to the proportional number of suffrages necessary to declare this will, I have also laid down the principles on which it should be determined: I have now to add,
that

that though the difference of one single vote will destroy equality, and one opposing voice prevent unanimity ; yet there are many unequal divisions between the two, and in each of them the number must be fixed according to the situation and occasions of the body politic.

Two general rules may suffice for regulating these proportions : one is, that the more serious and important the resolutions are, the nearer the number of voices which pass them must approach to unanimity : and the other, that the greater necessity there is for expediting the affair, the smaller may be the majority ; and on motions which require to be determined on the spot, one casting voice may be deemed sufficient. The first of these maxims seems most applicable to laws, and the second to the inferior business of state. Be that as it may, it is by combining these two rules that the number

ber of voices proper to form the majority on different occasions must be established.

C H A P. III.

Of Elections.

WITH regard to the elections of the prince and magistrates, which are, as I have before observed, acts of a complex nature, there are two ways of proceeding in them; the one is by choice, and the other by ballot. Both have been used in several republics; and we see them at this day mixed in a very complicated manner in the election of the doge of Venice.

The suffrage by ballot, says Montesquieu, is of the democratic kind. I grant it is so; but how then? The ballot, continues he, is a form of election that injures no person, but leaves to each citizen a reasonable hope of serving his country. But these are not the reasons.

If

If we consider that the election of chiefs is one of the functions of government, and not of the sovereign, we shall perceive why the mode of choosing them by ballot is more natural to a democracy, where the administration is so much better as its acts are less multiplied.

In all true democracies the office of a magistrate is so far from being advantageous, that it is a very burdensome charge; and the law alone can impose the charge on the person whom the lot has fallen upon: for the chance being equal to all, and the choice independent of any human will, there is not that application of an act to any particular person which would alter the universality of the law.

In aristocracies, the prince chooses the prince; and the government being preserved by itself, the mode of election by votes is particularly proper there.

The example of the election of the doge

doge of Venice confirms instead of destroying the propriety of this distinction. The mixed form which prevails there agrees with the mixed government ; for it is a mistake to suppose the government of Venice to be a true aristocracy. If the people have no part in the government, their noblesse may be considered as people ; for a multitude of the poorer part of them never approach the magistracy, and have nothing belonging to their rank but the empty title of Excellency, and a right of assisting at the grand council ; which grand council being as numerous as our general council at Geneva, its illustrious members enjoy no more privileges than our simple citizens. It is certain that, allowing for the extreme disparity of the two republics, the burgeses of Geneva exactly represent the Venetian *patriciat* ; while our natives and inhabitants may be compared to the citizens

zens and people of Venice; and our peasants to their subjects on the terra firma. In short, in whatever point of view we consider this republic, it will not be found (when allowance is made for its superior greatness) that the government is more aristocratic than that of Geneva. The only difference is, that, as we have no chief who holds his situation for life, we have not, like them, occasion for the election by ballot.

Elections by ballot would not be attended with any great inconveniency in true democracies, where all being equal in manners, talents, maxims, and fortune, it would be indifferent on whom the choice should fall: but I have already said there is not a real democracy existing.

When the two forms of election, that by the vote, and that by ballot, are mixed, the first must be used when the
election

election is to fill places which require to be filled by men of talents, such as military offices; the other, when good sense, justice, and integrity are sufficient, as they are in the charges of judicature: for in a well-constituted state these qualities are common to all the citizens.

Neither the choice by ballot or by suffrage has any thing to do in monarchical governments. The monarch being by right the sole prince and magistrate, the choice of his lieutenants pertains to him alone. When the abbé de St. Pierre proposed to multiply the councils of the king of France, and to elect the members by ballot, he perceived not that he was proposing a change in the form of government.

It now remains for me to speak of the manner of giving and collecting the votes in the assembly of the people: but perhaps an account of the practice at Rome

on that occasion will explain it better than all that I could say on the subject; and it may not be unworthy the attention of a judicious reader to observe how both public and private affairs were conducted in a council of two hundred thousand men.

C H A P. IV.

Of the Roman Comitia.

WE have no authentic monuments of the earlier ages of Rome. There is an appearance of something great; but the accounts transmitted to us of that very remote period, are evidently fables*;

* The name of Rome, which tradition pretends to be derived from Romulus, is a Greek word, and signifies *force*. The name of Numa is also Greek, and signifies *law*. What reason have we therefore to suppose that the two first kings of Rome bore these respective names before they performed the acts to which they so immediately relate?

and

and that part of their annals which is the most interesting in the history of any people, I mean the account of their institution, is entirely lost to us. Experience brings us acquainted every day with new causes, from whence the revolutions of empires proceed ; but as there is now no opportunity for men forming themselves into a people from the state of nature, we can do little more than conjecture how they are formed.

The customs which we find established, prove at least that they had some origin ; and of the traditions which trace these customs to their source, we must pay most regard to those which seem to have most reason on their side, and are supported by the best authorities. These are the principles I have adhered to in my researches to discover how the most free and most powerful people in the world exercised the supreme power.

After the foundation of Rome, the republic rose into existence; that is, the army of the founder, composed of Albains, Sabines, and strangers, was divided into three classes, which took from this division the name of *Tribus*. Each of these tribes was subdivided into ten *curies*, and each *curie* into *decuries*, at the head of which were placed chiefs, called *Curions* and *Decurions*.

Besides these divisions, there was drawn from each tribe a body of one hundred chevaliers, called *Centurie*, from whence it appears that this mode of dividing the citizens (certainly not very necessary in a city) was a military institution. But it also seems as if Rome had from the first a presentiment of her future greatness, and formed at once an establishment suitable to the capital of the world.

An inconveniency soon arose from this first division of the people; it was, that while the

the tribe of Albains, and that of Sabines, continued of their original number, the tribe of strangers, increased by the multitude that flocked to Rome, soon exceeded both the others.

The remedy which Servius applied to this dangerous disproportion, was a change in the manner of dividing the people. He abolished the division by *races*, and substituted another, by which the citizens were divided according to the parts of the city occupied by each tribe; and, instead of three tribes, he made four, each of which inhabited one of the hills of Rome, and took its name from thence.

After thus remedying the present inequality, Servius provided against its occurring again, by prohibiting those who resided in one quarter to remove into another, by which the due proportion of the divisions would have been again destroyed.

He also doubled the three ancient *centuries*

turies of cavalry, and added twelve others, but still under the ancient names ; a simple and judicious method of distinguishing these bodies of chevaliers from the body of the people, without giving the last any cause to murmur.

To the four *tribus urbaines*, or city tribes, Servius added fifteen others, called *tribus rustiques*, or rustic tribes, because they were formed of the inhabitants of the country, which was divided into so many cantons. There were afterwards as many new ones added ; and the Romans found themselves at last divided into thirty-five tribes ; which was the number they were confined to, while the republic continued.

By this distinction of *city tribes* and *country tribes*, an effect was produced which is well worthy of attention : because we have no other example of a similar nature ; and because Rome owed to it the preservation of her manners,
and

and the increase of her empire. It would be natural to suppose that the city tribes would soon arrogate to themselves the highest degree of power, and try to debase the country tribes by every possible means. But the fact was exactly otherwise; and the partiality of the first Romans for a rural life, was owing to their wise institutor, who united liberty with the rustic and military labours of the people, at the same time that he excluded arts, trade, intrigue, wealth, and slavery.

Thus the most illustrious citizens that Rome could ever boast of resided in the fields, and cultivated the ground: and it was there that the Romans went to seek those men who were the supporters of their republic.

This kind of rural life being chosen by the noblest patricians, made it universally respected: and the simple and

laborious state of a peasant was so much preferred to the idleness and effeminacy of the burghers, that the husbandman was regarded as the more honourable citizen.

It was not without cause, says Varro, that our magnanimous ancestors established a nursery in the country of those robust and valiant men, who were to defend the city in times of war, and supply it with subsistence in those of peace. Pliny also informs us, that the rustic tribes were revered on account of the men who composed them; while the tribes of the city were held in such contempt, that worthless men were turned over to them as a mark of ignominy.

When Appius Claudius the Sabine came to establish himself in Rome, and was treated with every possible mark of respect, his name was, in addition to the other honours conferred upon him, enrolled

rolled in one of these rustic tribes, which afterwards took the name of his family.

It was into the city tribes, and never into the rustic ones, that franchised slaves were admitted; and though by that admission they became citizens, there was no instance, during the whole time of the republic, of one of these freed-men enjoying any office in the magistracy.

This maxim, though a good one, was pushed so far as to produce in the end a change, and certainly an abuse, in the police: for the censors, after having for a long time arrogated the right of transferring the citizens from one tribe to another, in a very arbitrary manner, permitted the greater part of them to inscribe their names in whatever tribe they chose; a permission which could not be of utility, and which destroyed an excellent means of censure. Besides, all the great and powerful men inscribing their
names

names in the rustic tribes; and the freedmen, who were become citizens, continuing enrolled with the populace in those of the city, the tribes in general had no longer any fixed place for the residence of their members; but became so intermixed with each other, that it was by the registers alone, and not by his place of abode, that it could be known what tribe a man belonged to. By this means the word *tribe* was no longer applied to a real establishment, but to persons; and the end of the institution was defeated.

It likewise frequently happened that the tribes of the city, becoming more numerous, found their number of votes in the *comitia* exceed those of the country, and sold the state to such men as were base enough to purchase the suffrages of the wretches who composed them.

With regard to the *curies*, the institutor

tutor having established ten in every one of the three tribes, all the people of Rome being at that time inclosed within the walls of the city, found themselves comprised in thirty *curies*, each of which had its temples, its gods, its officers, its priests, and its festivals called *Compitalia*, similar to the *Paganalia*, afterwards established by the rustic tribes.

In the new division under Servius, the thirty *curies* could not be divided equally between the four tribes, and they were therefore left independent; from which time they became another division of the inhabitants of Rome. But there were no *curies* established in the rustic tribes; because the tribes being then considered as a civil establishment entirely, and there having been another mode of raising troops introduced, the military divisions of Romulus were thought superfluous. Thus, though every citizen
had

had his name inscribed as a member of some tribe, there were many who did not belong to a *curie*.

Servius added another division to these two, which bore no resemblance to either of them ; but became, by its effects, the most important of the three. He distributed the Roman people into six classes ; which were not distinguished by the place, or by the men, but by the property of the members, in such a manner that the first classes were filled by the rich, the last by the poor, and the intermediate ones by those who enjoyed moderate fortunes. These six classes were subdivided into one hundred and ninety-three other bodies, called *centuries* ; and these bodies were so arranged, that the first class alone comprehended more than half of these *centuries* ; and the last class formed only one, or the hundred and ninety-third part of the whole. So that
the

the class, which contained the fewest men, was the most numerous as to *centuries*; while the last class, which included more than half the inhabitants of Rome, was counted only as a subdivision.

To prevent the people from foreseeing the consequences of this establishment, Servius affected to give it a military air; and, in order to keep up the deception, he introduced into the second class two *centuries* of armourers; and two instruments of war into the fourth. In each class, except the last, he distinguished the young from the old; that is, those who were obliged to bear arms, and those whom the law exempted from that duty, on account of their age; a distinction which made it much more frequently necessary than any thing relative to property could have done, to take an account of the number of members in the
several

several classes that were subject to this regulation. To complete his plan, he directed the general assembly to be held in the *Champ de Mars*, and ordered all who were of an age that subjected them to military service, to come to the assembly in arms.

The reason why Servius did not establish this division of young and old in the last class, was, that the common people, of which it was composed, were not permitted to have the honour of bearing arms for their country; that being a privilege confined to those who occupied a dwelling which had a fire-place in it. And of those innumerable troops of beggars which at this time glitter in the armies of kings, there is perhaps hardly one who would not have been driven with disdain from a Roman cohort, at the period when those soldiers were the defenders of liberty.

There

There was however a distinction in the last class between the *proletarii*, and those who were called *capite censi*. The first of these, not absolutely destitute of all means, gave citizens to the state, and sometimes soldiers in times of urgent necessity : the latter, in the extremest indigence, could only be numbered by their heads, and were considered as nothing. Marius was the first who enrolled any of that body.

Without determining whether this third division was good or evil in itself, I believe I may safely affirm, that nothing but the simplicity of manners of the first Romans; their disinterestedness; their taste for agriculture; and their contempt for commerce and wealth, could render this method of classing the people practicable. Where is there a modern race of men, whose devouring avarice, unquiet spirit of intrigue, conti-

nual change of situation, and never-ceasing revolutions of fortune, would suffer such an establishment to subsist for twenty years without overturning the state? But we must remember that the impressions made by example and censure (more strong than any institutions) corrected the vices of Rome; and that those who had betrayed too much greediness for wealth, were exiled into the classes of the poor.

From this account of the distribution of the people of Rome, we may easily perceive the reason why we seldom find any more than five classes mentioned, although there were really six. But as the sixth furnished neither soldiers for the army, or voters for the *Champ de Mars*,*

* I say for the *Champ de Mars*, because it was there that the assembly by *centuries* was held: in the two other forms, the people assembled at the *Forum* or elsewhere; and then the *capite censi* had as much influence and authority as the first citizens.

and

and were hardly of any use in the republic, they were made little or no account of.

Such were the different divisions of the Roman people : we shall soon see the effect which they produced in the assemblies.

These assemblies when legally convoked were called *Comitia* : they were usually held at the Forum in Rome, or at the *Champ de Mars* ; and were distinguished by the names of *comitia curiata*, *comitia centuriata*, and *comitia tributa*. The *comitia curiata* was instituted by Romulus ; the *comitia centuriata*, by Servius Tullius ; and the *comitia tributa*, by the tribunes of the people. No law could be ratified, no magistrate could be elected, but in the *comitia* ; and as there was not one citizen whose name did not appear inscribed in some *curia*, *centuria*, or *tribus*, there was of course no citizen excluded

cluded from the right of voting. The Roman people were therefore truly the sovereign, both in right, and in act.

There were three conditions necessary for making the *comitia* a legal assembly, and stamping the acts there passed with the authority of laws. First, that the assembly should be convened by a body, or a magistrate, duly authorized by law to convene them. Secondly, that the assembly should be held on one of those days permitted by law. And thirdly, that the omens reported by the augurs should be auspicious.

The reason of the first rule requires no explanation. The second was a police regulation : for the holding of the *comitia* was forbidden in those days when the country people came to dispose of their commodities at market ; because, at such times, they must be supposed to have business which would prevent their attending

ing

ing the public meeting. The third served as a kind of check in the hands of the senate to restrain a fierce unquiet people, and temper occasionally the ardour of the seditious tribunes.

The making of laws, and the election of chiefs, were not the only points submitted to the judgment of the *comitia*: for the people of Rome having usurped the most important functions of government, all the affairs of Europe were in a manner regulated in these assemblies; and this diversity of objects obliged the *comitia* to change its form, in the manner it had used to do, according to the business to be determined on.

To judge properly of these diverse forms, it is necessary to compare them.

The design of Romulus in instituting the *curie* was, to restrain the senate by the people, and the people by the senate, in a proper equilibrium. He therefore

by this establishment gave the superiority of number to the people, as a means of balancing the superiority of wealth which rested with the patricians; but still, according to the spirit of monarchy, he left a great advantage on the patrician side, by the influence which their clients must have from their votes in every decision of the *comitia*.

This admirable institution of patrons and clients was a *chef d'œuvre* of policy, as well as humanity; for without it the patrician order, so adverse to the true republican spirit, could not have been maintained. Rome has alone had the honour of shewing the example of this noble institution to the world; an institution from which no evil ever arose; but which, with all its advantages, has never been adopted by any other nation.

It was from the circumstances of the *curia* having retained their form under the
the

the kings of Rome, from the time of Servius Tullius, and the reign of the younger Tarquin not being deemed legal, that the royal laws of that period were generally distinguished by the name of *leges curiatae*.

In the time of the republic, the *curiae* were confined to the four city tribes; and consequently, consisting wholly of the populace of Rome, could not be admitted to the senate, which was confined to the patrician order: nor could they be chosen tribunes; for though these were elected from the plebeians, it was from those who had property, and not the lowest class. The *curiae* thus fell into discredit; and their degradation was so extreme at last, that their thirty lictors had used to assemble for the whole body, and do all that was to be done by the *comitia curiata*.

The division by centuries was so fa-

vourable to the aristocracy, that it is surprising the senate did not always carry their point in the assemblies that bore that name; and in which the consuls, censors, and other curule magistrates were elected. In fact, of the hundred and ninety-three centuries, which formed the six classes, containing the whole Roman people, the first class comprehended ninety-eight; and the votes of each class being one for each century, this first class had more votes than all the other classes together; and whenever all their centuries voted unanimously on any question, the majority being decisive, the suffrages of the centuries of the other classes were not collected.

But the excessive influence which this establishment must otherwise have ensured to the senate was moderated by a double means. In the first place it received a check from the tribunes, and from
the

the great number of wealthy plebeians who were in the first class, and who of course balanced the credit of the patricians. And in the second place, instead of the first century of the first class coming forward to vote before the others, according to its rank, a regulation was made by which all the classes drew lots to determine from which the first vote should proceed*: and when that was over, each century of the class on which the lot had fallen, drew lots to settle which should pass into the *septa* first to give their suffrage. After the first suffrage had been given, the other centuries passed the *pontes* to give their votes according to their degree; and it generally happened that they confirmed the decision of the first vote. Thus was the example of allowing

* The century thus chosen by lot, was called *prærogativa*, as being the first whose suffrage was demanded. From hence comes the word prerogative.

a privilege to rank destroyed, and a mode adopted more agreeable to the principles of democracy.

There was a further advantage still in this method; for during the time employed in drawing the lots, first for the *prerogative class*, and then for the *prerogative century*, the country people had leisure to enquire into the character of the candidate; and inform themselves whether he was or was not worthy of their choice. But in time this custom was abolished, under pretence of expediting business, and the two elections made at once.

The *comitia tributa* was properly the council of the Roman people. It was convened only by the tribunes. It was in this assembly that the tribunes were elected, and there they passed their *plebiscita*.

The senators had not only no rank in the *comitia tributa*, but no right to assist
in

in that assembly; and being thus forced to submit to laws in the establishing of which they had no vote, the senate of Rome was less free than the meanest citizens. This injustice was highly impolitic, and sufficient alone to invalidate the decrees of an assembly from whence a part of the people were excluded. It was also an absurd act of partiality; for if the patricians had assisted at that *comitia*, to which they certainly had a right as citizens, in that character only, and as mere individuals, they could scarcely have had any influence in decisions where the suffrages were taken by the head, and where of course the meanest member of the commonalty would have as good a vote as the chief of the senate.

Thus we see in the order established for collecting the suffrages amongst this great people, that the forms were regulated in the wisest manner; and that each
of

of them produced effects exactly corresponding with the views of their institution.

Without entering further into long details, it must appear, from the account already given, that the *comitia tributa* was the most favourable to a popular government ; and the *comitia centuriata* to an aristocracy.

With regard to the *comitia curiata*, where the populace of Rome alone formed a majority ; as it seemed likely to answer no one purpose but that of favouring tyrants, and all kind of evil designs, the assembly fell into such disrepute, that even seditious men avoided going there, lest it should betray that they had some dark project in contemplation.

It was in the *comitia centuriata* alone that the majesty of the Roman people was displayed. That assembly, and that only, of all the three assemblies, was complete ;
for

for the *comitia curiata* was deficient because it wanted the suffrages of the *tribus rustice*, or country tribes; and the *comitia tributa* was certainly imperfect, from the exclusion of the senate, and of all the patricians in general.

The manner of taking the votes was, in the earlier days of Rome, as simple as the manners of the inhabitants, but still less so than at Sparta. Every voter gave his suffrage with a loud voice, and a secretary inscribed it in a register. The majority of votes in each tribe was considered as the suffrage of the tribe; and the majority of these suffrages was considered as the sense of the people: and the same rule was observed with respect to the *curia* and *centurie*. This was a judicious mode, so long as integrity reigned amongst the citizens; and that each individual would have been ashamed to give publicly the sanction of his suffrage to an unjust or unworthy cause. But when

the people became corrupt enough to sell their votes, it was necessary that they should be given in a secret manner, in order to defeat the expectation of the purchaser, and give the knave an opportunity of being true to his country, without losing the advantage of betraying it.

Cicero, indeed, condemns this alteration; and attributes to it in part the ruin of the republic: but though I acknowledge the weight of such authority, I cannot agree in opinion with Cicero. I think, on the contrary, that the fall of Rome was accelerated by the want of more alterations: for as a regimen proper for persons in health will not agree with invalids, so a corrupted people cannot be governed by the same laws that will suit a nation in the state of innocence. Nothing can illustrate this maxim more than the state of Venice, whose republic still continues, or at least the semblance of

of it, from no other reason than because the laws were adapted for the government of bad men.

Such were the reasons that, in the latter days of Rome, tablets were distributed to each voter, on which his negative or affirmative being written and thrown into the urn, or rather chest, for receiving them, no person could know on what side his suffrage was given. New forms were also established for collecting these tablets, counting the voices, comparing the numbers, &c. but all did not prevent suspicion of infidelity in the officers employed on these occasions: and the multitude of edicts passed to prevent the iniquitous traffic in suffrages, proved how insufficient they were to effect a reformation.

Towards the latter years of Rome, there

* *Custodes, Diribitores, Rogatores suffragiorum.*

was often a necessity for recurring to extraordinary expedients to supply the deficiency of the laws. Sometimes omens were drawn from supposed prodigies ; but this could only impose upon the vulgar, without producing any effect on those who were in the secret. Sometimes the assembly was convened so hastily, that the candidates had not time to tamper with the electors : and sometimes, when it was perceived that the people were prepared to give their suffrages to an unworthy person, the whole time of the meeting was consumed in long harangues. But ambition found means to elude all these schemes ; and (what seems almost incredible) in the midst of these abuses, this immense people, in conformity with their ancient establishments, never desisted from electing their magistrates, passing laws, judging causes, and expediting all affairs, whether of a public or private nature,

nature, with almost as much facility as they could have been transacted in the senate.

CHAP. V.

Of the Tribuneship.

WHEN it is found impossible to preserve a due proportion between the different parts of a state; or when irremediable causes are continually altering the relations, then a particular magistrate is created, who does not make one of the body of magistrates, but whose relative affinity to each enables him to form an intermedial degree or link of union between the prince and the people, or between the prince and the sovereign, or even between both at once, if it be necessary.

The body of tribunes, who are of this description, have frequently been the means

means of preserving laws, though they had not the power to legislate. They have sometimes guarded the sovereign against the government, as the tribunes of the people often did at Rome ; and sometimes the government against the people, as the council of ten do in Venice ; and sometimes they maintain a proper equilibrium between all the parts of the state, as the *Ephori* did at Sparta.

The tribuneship is not a constituent part of the city ; neither can it enjoy any share in the legislative or executive power ; but its own authority is very great notwithstanding ; for though it can do nothing, it can prevent every thing ; and it is held more sacred, as the defender of the laws, than the prince which executes them, or even than the sovereign which institutes them. This veneration paid to tribunes was very conspicuous at Rome, where those proud patricians who despised the

the whole body of the people, were obliged to bend before one simple officer of that people, though he possessed neither patronage or jurisdiction.

The tribuneship wisely tempered is the firmest support of a good constitution: yet the conferring upon that office but a very small degree of power beyond what is absolutely requisite, is the certain means of overturning every thing. From the nature of the office of tribune, it can never be feeble: if it were, there would be no reason to dread the consequences; for provided the tribunes exist, it is no matter how little energy they possess.

This office degenerates into tyranny, when it usurps the executive power, which it is designed to moderate; or when it directs the laws, which it ought to protect. The prodigious power of the *Ephori*, though inoffensive while Sparta maintained her simplicity and

Z

virtue,

virtue, accelerated her corruption, when once it had commenced: and though the blood of Agis, assassinated by these tyrants, was avenged by his successor, yet the crime, and the punishment of the *Epbori*, equally contributed to the fall of the republic; and we may truly say, that after Cleomenes Sparta was no more.

Rome fell by the same means as Sparta: for the tribunes there also usurped the executive power; which, aided by the laws that were made for the support of liberty, they employed to support the emperors who destroyed her. As to the council of ten at Venice, it is a tribunal of blood, formidable alike to the patricians and the people; and which, so far from protecting the laws with a jealous pride, serves only after their debasement to give those blows in secret which are too black for public view.

The

The body of tribunes, like that of government, is weakened by the multiplication of its members. When the tribunes of the Roman people, who were at first only two, but afterwards increased to five, were desirous of doubling their number, the senate gave no opposition, being well assured of what afterwards actually happened; that in such a number they might find some means of playing one against another, so as to keep the whole body from uniting its force against them.

The best means of preventing the usurpations of so formidable a body (but a means of which no government seems ever to have thought) would be not to make their establishment permanent; but fix stated intervals when it should suffer a temporary suppression. These intervals should not be so distant as to give time for abuses to become established by habit;

and the period should be settled by law, with a provision for shortening the time, if necessary, by an extraordinary commission.

This method appears to me wholly unobjectionable; because, as I have already observed, the tribuneship making no part of the constitution, may be suppressed without doing that any violence: and I am inclined to believe it would be effectual; because a new magistrate would not re-establish any part of the improper power which his predecessor might have acquired, but must depend wholly on that bestowed upon him by the laws.

C H A P. VI.

Of the Dictatorship.

THAT inflexibility natural to the laws, which hinders their bending to any event,

event, may in certain cases be pernicious, and even occasion the ruin of the state: for a strict observance of all their slow progressive forms, may require more time than circumstances at an alarming crisis could admit without the danger of fatal consequences. And as there are a thousand occurrences for which the legislature cannot have provided, it is a very necessary degree of foresight to perceive that every thing has not been foreseen.

For this reason it is advisable not to establish political institutions so strongly as to prevent a possibility of suspending their effect, if such a suspension should be found necessary. In the best constitutions it may be sometimes permitted, since even Sparta herself suffered the laws to sleep in cases of emergency.

I must however explain, that nothing but the most imminent danger of the

state ought to weigh against the danger of altering the regular course of public order : and that the sacred power of the laws should never be impeded, but when the salvation of the country depends upon it. In these rare instances, when the necessity is manifest, the public safety is provided for by a private act, which commits the charge to the most worthy. This commission may be given in two different ways, according to the nature of the danger.

If the situation of affairs requires to have the activity of government augmented, then the mode must be to concentrate the power in the hands of one or two of its members; by which means it will not be the authority of the laws that is altered, but only the form of administering them. But if the danger is of such sort, that the regular process of the law is an obstacle to its removal, then a
supreme

supreme chief must be appointed, who shall be able to silence the laws, and suspend for a moment the sovereign authority. In such a case, the consent of the general will is not to be doubted, because it is evident that the first wish and the intention of the people must be, that the state should not perish. This manner of suspending the legislative authority does not abolish it; and the magistrate whose power could silence the laws can again restore their voice; but with all this authority he cannot represent the legislature. He may do every thing but make laws.

The first of the two modes which I have been explaining was the one adopted by the Roman senate, when they invested their consuls, by a form of consecration, with power to save the republic: the second was the one adhered to when the two consuls named a dictator, a practice

of which the Albans had given an example to Rome *.

In the infancy of the republic they had often recourse to a dictator, because the state had not then acquired sufficient stability to support itself by its constitution. The uncorrupted manners of the times rendered those precautions then superfluous, which would have been necessary at another period ; for there was no fear in that age of integrity that a dictator should either abuse his authority, or endeavour to protract it beyond its term. It seemed, on the contrary, that such abundant power was burdensome to the person on whom it was deposited, and that he wished to be released from a dangerous and troublesome office, which made him stand in the place of the laws.

Thus it was never the apprehension that he intended to abuse, but the fear

* The Dictator was named secretly, and in the night ; as if they were ashamed of placing a man above the laws,

that

that he would suffer the degradation of his authority, that drew blame upon these supreme magistrates for their imprudent display of it in the early ages of Rome: for while that authority was lavished at elections, dedications, and things of mere formality, there was reason to apprehend that it would become less formidable; and that the people would at last be accustomed to regard the name of dictator as an empty title, employed only to give dignity to idle ceremonies.

Towards the end of the republic, the dictatorship was as imprudently withheld as it had been lavishly bestowed in former times: for it is easy to see that the fears entertained from such a chief were ill-founded, as the weakness of the city was a sufficient security against the designs of any magistrate lodged within its bosom. It is also certain that a dictator might in many cases have been endowed with
 suf-

sufficient power to defend the public liberty, but not to injure it; for it was not in Rome, but in her armies, that the chains of her citizens were forged; and the little resistance that was made by Marius against Sylla, and by Pompey against Cæsar, evidently shews how little can be done by authority on one side against force on the other.

This mistake led the Romans into great errors; for instance, in not appointing a dictator in the affair of Catiline: for there is no doubt but the unbounded authority which the laws gave to that magistrate would have enabled him to dissipate the conspiracy which had spread, not only in Rome, but through some provinces of Italy; and which was only stifled by a concurrence of fortunate events, which human prudence could never have produced.

Instead of appointing a dictator on the critical occasion I have been speaking of,
the

the Roman senate contented themselves with transmitting all their power to the consuls ; which obliged Cicero, in order to give efficacy to his measures, to exceed the limit of his legal power in a very material point : and though, in the first transports of joy, his conduct was approved, it was not without justice that in the end he was called to account for the blood which was shed in an illegal manner. But on this occasion the consul's eloquence carried every thing before it ; and he, although a Roman, being more attached to glory than to his country, passed over the more lawful and more certain means of saving the state, that he might have the honour of its protection entirely to himself. The affair succeeded in this particular to his wishes ; for he was honoured, and justly, as the deliverer of Rome ; but he was punished with equal justice, as a violator of her laws : and
however

however glorious his recal might have been, still it was only an act of grace towards him.

In whatever manner this important commission of dictator is conferred, it is absolutely necessary that it should hold in force but a very short time, and that nothing should be allowed to prolong it: for in crises when such a magistrate is required, the fortune of the state must soon be determined, and it must fall or be saved very speedily; and if a dictator holds his situation after the pressing occasion for his appointment is removed, he becomes either tyrannical, or useless.

At Rome the dictatorship, though conferred only for six months, was most frequently abdicated before its expiration. If the term had been longer, there might have been a temptation to prolong it still further, as was the case with the decemvirs,

vir, whose office continued for a year: but the dictator was possessed of power only just long enough to perform the service for which he was appointed, and had not time to think of forming projects.

C H A P. VII.

Of the Censors.

IN the same manner as the general will was declared by the law, the public judgment was declared by the censor; the public opinion being a kind of law of which the censor was the minister, and which he caused to be applied to particular cases, after the example of the prince, or executor of the law. And the censors at Rome were so far from being the arbiters of the people's opinion, that their business was only to declare it; and whenever they ceased to do
so

so faithfully, their decisions were deemed vain, and of no effect.

The manners of a nation originate in the same principle with their attachments and aversions; and throughout the world, it is not nature, but opinion, that determines mankind in the choice of their pleasures: of course, when our errors of opinion are corrected, our manners reform of themselves. What is, or what appears to be good, attracts universal admiration; but when their judgment is warped by prejudice, men often prefer the appearance to the reality: so that the great point is to regulate the judgment.

The constitution of a people is the parent of their opinions: for, though manners are not formed by law, yet they form themselves on the model of the laws; when these become feeble, the national manners degenerate proportionably: and it is at such a time that the
judgment

judgment of a censor may effect what no law could accomplish.

The conclusion to be deduced from these remarks is, that a censor may be of utility in preserving the moral virtues, though he cannot establish them. A censor should therefore be appointed while the laws are yet in their vigour; for when they have fallen into decay, all is over; as no legal act can have force when the laws have lost their authority.

The business of a censor is to preserve morality and decorum, by preventing the minds of men from being corrupted: to maintain integrity by judicious aids, and, sometimes, to fix opinions when they waver. The use of seconds in duels, which was carried to a pitch of phrenzy in France, was abolished by these words only, in an edict issued by the king:

*“ Respecting those who have the cowardice to
“ call in seconds.”* These words, by fix-

ing the public opinion, which was not made up on the subject, put an end to the practice at once; but when, by a similar edict, it was declared cowardice to fight a duel also, though the assertion was true, yet, as it contradicted the received opinion, the public ridiculed the idea.

I have said, in a former work *, that the public opinion not being subject to any restraint, no appearance of restriction should exist in a tribunal established to represent it: but, notwithstanding this inability to restrain by compulsion, it is admirable to see with what effect this spring, in the political machine, was made to play by the artful management of the Romans. The Lacedemonians employed it in a still greater extent, and

* I shall touch but slightly in this chapter on a subject which I have already treated upon more at large in a Letter to Mr. d'Alembert.

with

with proportionable success; and yet it is wholly neglected by our modern statesmen.

A very few instances of the decisions passed by the censorial tribunal at Sparta will sufficiently shew its utility.—A man of profligate character advised a salutary measure in the Spartan council; and the *Ephori*, without seeming to pay any regard to what he had said, caused a citizen of known integrity to propose the very same measure. How great an honour was conferred by this act upon the one party, and what a severe reproach did it cast upon the other, without making use of either praise or censure in direct terms! At another time, when a company of drunken men of Samos had defiled the seats of the *Ephori* with filth, an edict appeared the next day, granting full permission to the Samians to commit filthy deeds.—A real punishment would

A s

have

have been less severe than such an impunity. By this means, contributing with others, was the integrity of Sparta rendered so respectable, that when she pronounced what was, or was not, virtuous, Greece never appealed from her decisions.

CHAP. VIII.

Of Civil Religion.

IN the first ages of the world, men knew no kings but the gods, and no government but theocracy. The reasoning of Caligula would then have been just: and it must have been the work of a very long period so to alter the sentiments and ideas of mankind, as to make them acknowledge their fellow mortals for their masters, and flatter themselves that

that they should find their advantage in submitting to them.

From this single circumstance, of there being a god placed at the head of every political society, it is evident that there were as many gods as people : for two societies, strangers to each other, and almost always in a state of hostility, could not long continue to acknowledge the same master. Two armies fighting against one another could not obey the same chief : and thus polytheism was the consequence of national divisions ; as civil and religious intolerance (which are in fact the same) were of men's acknowledging a plurality of gods, as I shall shew hereafter.

The propensity which the Greeks indulged, of discovering that it was their own deities who were worshipped even by barbarians, sprung from a desire to prove that their gods had been the

natural sovereigns of those people : but in our days, men certainly employ themselves in a very ridiculous species of erudition, who endeavour to prove the identity of the gods of different nations : as if Moloch, Saturn, and Chronus ; the Baal of the Phenicians, the Zeus of the Greeks, and the Jupiter of the Latins, were the same : and that all these chimerical beings were one deity, distinguished by different names.

It may appear extraordinary to those who have never enquired into the cause, that, in the days of Paganism, when each state had its particular form of worship, and its own gods, there should have been no religious wars. The reason was, that each state, having its peculiar form of government, as well as of religion, did not distinguish its gods from its laws ; and therefore the political was also a religious war : the jurisdiction of their
gods

gods being, as it were, limited by the boundaries of the nation; and the gods of one country having no right over the people of another.

The gods of the Pagans were certainly not jealous gods; for they parted the empire of the world among them: and Moses himself, and the Hebrews, have taken up this idea sometimes, in speaking of the God of Israel. They regarded, it is true, as nothing, the gods of the Canaanites; a people proscribed, and devoted to destruction, and whose country they were to possess: but let us see how these Hebrews spoke of the deities of the neighbouring people, whom they were forbid to attack. *The possession of that which appertains to Chamos your God (said Jephtha to the Ammonites), is it not lawfully yours? We possess, under the same title, the lands which our conquering*

God has acquired *. This seems to me to be fully acknowledging a parity between the rights of Chamos, and those of the God of Israel.

But when the Jews, after being subject to the kings of Babylon, and at last to those of Syria, obstinately refused to acknowledge any other god but their own, the refusal drew upon them the persecutions which we read of in their history, and which were unrepeated,

* *Nonne ea quæ possidet Chamos Deus tuus tibi jure debentur?* Such is the text of the Vulgate. P. de Carrieres has translated it, *Ne croyez-vous pas avoir droit de posséder ce qui appartient à Chamos votre Dieu?* — *Believe you not that you have a right to possess that which appertains to Chamos your God?* I do not know the force of the Hebrew text; but I see that in the Vulgate Jephtha acknowledges the right of God Chamos unequivocally; and that the French translator weakens this acknowledgment by a *selon vous*, which is not in the Latin.

until

until since the commencement of Christianity*.

Every religion being peculiarly united with the laws which prescribed it, there was no way of converting a nation but by subduing them; or any other missionaries requisite, but those who lead on a victorious army: for the obligation of exchanging one system of faith for another, being a law imposed on the vanquished, men must conquer before they began to convert. So far indeed were men from fighting for their gods, that it was the gods, as in Homer, that fought for the men: each party demanding the honour of the victory for his own deities, and paying them for it by additional altars.

* It is evident, the Phocian wars, which were called sacred, were not religious wars; their object was to punish sacrilege, and not convert unbelievers.

The Romans, before they attacked any place, summoned its gods to abandon it: and when they left to the Tarentines their irritated deities, it was because they considered these deities as being already subjugated to theirs, and forced to do them homage. They indeed often left their gods to the people they had vanquished, in the same manner that they left them their laws; and a crown, presented to Jupiter in his temple of the Capitol, was frequently the only tribute they imposed.

In fine, the Romans having increased, with their dominions, both their religion and their gods, by their repeatedly adopting those of the nations they had conquered in granting them toleration; the people of that vast empire had at last such a multitude of gods, and so many different religions, that the subjects of Rome were of every faith; and from hence the word Paganism, from includ-
ing

ing all these religions, was considered as the name of one single religion.

While things were in this situation, Jesus Christ came to establish a spiritual kingdom on earth; which separating the theological from the political system, divided what had till then been one; and caused those intestine dissensions, which have never ceased to agitate the professors of Christianity.

The novel idea of a kingdom in another world seemed incomprehensible to the Pagans; and they therefore considered the disciples of Christ as rebellious hypocrites, who, under pretence of entire submission, attentively sought the opportunity of rendering themselves not only independent, but masters; by usurping that authority, which, while too weak to oppose, they pretended to respect. This was the true cause of the Christians being persecuted.

What

What the Pagans were apprehensive of actually came to pass ; the face of affairs was altered ; and the humble Christians having changed their language, the pretended kingdom of heaven soon became a kingdom of this world, under a single chief, who governed with the most unlimited despotism.

But, notwithstanding the reign of this absolute master, as there has always been a prince, and civil laws, the consequence resulting from the double power, has been a perpetual conflict for jurisdiction : this made it impossible to establish any system of good polity in Christian states ; because men could never certainly inform themselves, whether it was the master, or the priest, they were bound to obey.

Many nations in Europe, or at least in its vicinity, have endeavoured to preserve, or rather to re-establish, the ancient system ; but without success : the spirit
of

of Christianity prevails over every thing: and that sacred religion is, in every state where we find it professed, entirely independent of the sovereign; and in no degree comprehended within that connecting chain, so indispensably necessary for uniting all the members of the body politic.

Mahomet evinced great wisdom in the plan he devised: he combined his political system well together: and while the form of government, established by him, subsisted under the caliphs his successors, it was undivided; and in that respect it was good. But the Arabs, become flourishing, learned and polished, became also luxurious and effeminate, and were subjugated by the barbarians. A division then took place between the civil and religious powers; and although this disunion is less apparent amongst the Mahometans, than the Christians, it is perceiv-

able every where, and conspicuously so in the sect of Haly; and in those states, such as Persia for instance, where that sect prevails.

Amongst us, in this quarter of the globe, the kings of England are acknowledged heads of the church; and the czars of Muscovy have adopted the same character: but by this title they are rendered rather the ministers than the masters of the church; since they have acquired only the right of maintaining its power, and not that of altering its constitution; for they are not its legislators, but its princes or executive powers: it is the clergy that form the body of the church every where*: they are its masters and its

* It is not so much the formal assemblies of the clergy, like those in France, which bind them together, as the fellowship of the churches: that fellowship, and the power of excommunication, are the social compact of the clerical body; by means of which

its legislators; and there are therefore two powers, and two sovereigns, in England and in Russia, as well as in other countries.

Of all the Christian authors who have written on the subject, the philosopher Hobbs is the only one that has clearly seen the evil, and the remedy, of these two distinct powers existing in a state: he is also the only one who has dared to propose a junction of these two heads of the eagle; and that every thing should be brought again into a state of political unity, without which no government can be well established. But Hobbs

which they are always masters over kings as well as people. All priests who communicate together, though they dwell in the two extremities of the earth, are fellow citizens; an invention which may be truly termed a *chef-d'œuvre* in policy. There was nothing like it amongst the Pagan priests, neither did they ever form a body of clergy.

forefaw

foresaw, that the predominant spirit of Christianity would defeat his system, and that the interest of the priesthood would always triumph over that of the state. This doctrine of Hobbs has not given offence, because there is any thing horrid or false in its policy ; but it is its justice and its truth that have rendered it odious*.

By developing the historical facts which immediately relate to this subject, a complete refutation would be given to the very opposite opinions of Bayle and Warburton ; one of whom pretends that no religion is of use to a body politic ; while the

* In a letter from Grotius to his brother, dated the 11th of April, 1643, it appears how far that learned man approved, and how far he disapproved, of the book, entitled *De Civ.* Inclining to the indulgent side, he seems to pardon the good part of the author's doctrine, on account of the bad maxims he inculcates : but all the world do not possess Grotius's clemency.

other,

other, on the contrary, asserts that Christianity is the only certain support of it. One of these writers proves that, from the earliest ages, no state has ever been established without having religion for its basis; and the other shews, by evidence of equal authority, that the Christian law is more injurious than useful to the strongest constitution.

The ideas of many people on religious matters are so exceedingly vague, that, to make myself clearly understood, it may be necessary to fix them with a little more precision on those points which immediately relate to my subject.

Religion, considered as connected with society, is either general or particular; and may be divided into two distinct species—the religion of the man, and the religion of the citizen. The former, without the pomp of temples, of altars, or of rites; confined entirely to that adoration

ration which the heart pours forth in secret to the supreme God; and to the discharge of those moral duties which reason alone enjoins, is the pure and simple religion of the gospel, the true theism; and what may be justly called the natural divine law. The other, calculated only for one people, gives them their gods, and their patrons; and has its dogmas, its rites, and its external worship, prescribed by the laws.

But if you pass the boundaries where this religion prevails, its followers consider every human being as a stranger, an infidel, a barbarian; and will not allow the rights or the duties of men to those who live out of the circle of their altars. Such were, in the first ages, all the religions to which men gave the name of law, divine, civil, or positive.

There is still another and a more extravagant kind of religion, which gives
to

to mankind two legislations, two chiefs, and two countries ; requires from them contradictory duties ; and prevents their being devout men and citizens at the same time. The religion of the Lamas is of this sort, so is that of the Japanese ; and the Roman catholic faith may be justly included in the number. The latter may well be called the religion of the priests ; and there results from it a kind of mixed and unsocial duty, which is without a name.

To consider these three religions in a political point of view, they all have their defects. The third in particular is so evidently bad, that it would be losing time to demonstrate its evils. This however I must observe in respect to it, that whatever breaks the social union is objectionable ; and that all institutions, which create duties contradictory to the designs of nature, should be deemed of no effect.

The second of these religions possesses some claim to approbation, because it unites with divine worship a love of the laws ; and, by making their country the object of men's adoration, it teaches them, that to serve the state, is to serve the God who presides over it. This is a species of theocracy, which allows of no pontiff but the prince, or any priests but the magistrates ; and the precepts it inculcates are, that the citizen who dies for his country dies a martyr ; that it is impious to violate the laws ; and that to submit a criminal to public execration, is to devote him to the anger of the gods.

But this religion is also evil ; because, as it is founded in error and falsehood, it deceives mankind, renders them credulous and superstitious, and clouds the true worship of the Deity with vain ceremonies. It is likewise evil, when, becoming
jealous

jealous and tyrannical, it makes the people sanguinary and intolerant to such a degree, that they breathe nothing but massacre and murder; and believe they perform a righteous action in killing every person who will not bow to their gods. This spirit of religious fury places men in a state of natural warfare with all other people, and must be extremely injurious to their own safety.

There now remains to be considered the religion of man, or Christianity; not such as it is at this day, but such as the Evangelists taught it, which is very different from the present faith. By this religion—holy, sublime, and true—mankind, the children of the same God, acknowledged all the human race as brothers; and the social bond which united them dissolved not even in the grave.

But this religion, having no connection

with the body politic, left the laws possessed of that force only which they drew from themselves; and did not give them any additional power. By this means, one of the great bonds of particular societies was wanting: and what was of still more consequence, because it was destructive to the social spirit, this system, instead of attaching the hearts of citizens to the state, drew off their attention from all human concerns, and fixed their thoughts upon another world.

It has been said, that a nation of true Christians would form the most perfect society that can be conceived: but there is one circumstance which makes me greatly doubt the truth of the supposition; it is, that a society of true Christians would not be a society of men; and such an association, supposing it could exist, would be neither more strong or more durable for all its perfection.

In

In consequence of its being without fault, it would want the necessary bond of connection; and its very perfection would prove the vice that must destroy it.

It is indeed a beautiful picture of human nature, to imagine men in a social state, where every one fulfils his duty; where the people are obedient to the laws; the chiefs just and moderate; the magistrates upright and incorruptible; the soldiers despising death; and neither vanity or luxury known among them: but let us look a little further, and mark the consequence of this purity.

Christianity is a religion entirely spiritual, and employing all its attention on a future state; for this world is not the country of a Christian. It is true, he performs his duty, but it is with perfect indifference as to the good or ill success of his cares; and, provided he has no-

thing to reproach himself with, it is of little consequence, in his opinion, whether affairs go well or ill below. If the state flourishes, he scarcely dares to enjoy the public felicity, lest he should become proud by the glory of his country. And if the nation falls into ruin, he blesses the chastening hand of God, which is laid so heavily on his people.

For such a society to remain in peace, and preserve uninterrupted harmony, all its members, without exception, must be equally good Christians : but if there should unhappily be found amongst them one single man of ambition, or one hypocrite, a Catiline for instance, or a Cromwell, he would make fine work with his pious neighbours : for Christian charity does not permit men to credit ill of others, unless there are proofs which cannot be doubted ; and when such men as I have just named should, by some
subtle

subtle art, have found the means of imposing on their fellow citizens, and of attracting to themselves some part of the public authority, the consequence would be, that the religious community would suppose the usurper of their rights, a man intended by God to be respected : and when his usurpations were carried still further, and he shewed himself their master, they would still consider it as their duty to obey ; till in the end, if this depository of their whole power should abuse it, they would deem his tyranny a just punishment ordained by Heaven for their offences, and make a conscience of chasing away the tyrant ; because, for effecting it, the public repose must be interrupted, violence must be used against his abettors, and perhaps blood shed in the conflict ; all which agree ill with the mildness of the Christian character. And, after all, they

would think—What does it avail whether we are in freedom or in chains, during our pilgrimage through this vale of misery? for Paradise is the happy goal in view, and resignation the means of gaining it.

If the state is engaged in a war with strangers, the Christians march without dread to battle, and not one of them ever thinks of saving himself by flight: but, though they do their duty, they have no ambition to be victorious; and they know better how to die than to conquer. What signifies it to us, say they, whether we vanquish or are vanquished? Does not Providence know best what is proper for us? It is easy to suppose that a proud, impetuous, and passionate enemy would not fail to take advantage of such pious stoicism.

Let us for a moment suppose this meek and patient people engaged in a quarrel

quarrel with an active, generous nation, glowing with patriotifm, and the love of glory ; fuppofe this republic of Chrif- tians contending with Sparta or with Rome : they would be beaten, crufted, deftroyed, before they had time to recollect themfelves ; or they muft owe their falvation to the contempt of the enemy.

Thefe Chrifians would have thought they injured their God by acting like the foldiers of Fabius ; who, on the eve of a battle, fwore not to die, but to conquer ; and they kept their oath.

But I am guilty of an error when I fpeak of a republic of Chrifians, for there can be no fuch thing. Chriftianity preaches up fervitude and dependance ; and its fpirit is too favourable to tyranny not to be always taken advantage of. In fhort, the true Gofpel Chrifian is formed to be a flave ; and they are fo fenfible of it, that they hardly endeavour to avoid flavery.

slavery. This short life is of too little consequence in their eyes to have any thought bestowed upon it.

We are told that the Christian troops are excellent ; but where are they to be found ? For my part, I do not know of any Christian troops that have ever existed. If I am desired to recollect the Crusades, I shall beg leave to remark, without disputing the bravery of the Crusaders, that, so far from being Christian troops, they were only the soldiers of the priests ; the citizens of the church, who fought for her spiritual pay, which by some means or other she had rendered temporal. In fact, when we consider the point, this business of the Crusades favours of the Pagan system ; for, as the Gospel does not establish any national religion, all religious wars are impossible among Christians.

Under the Pagan emperors, the Christian

tian soldiers were distinguished for their bravery, as the Christian writers assure us; and I believe the fact was so: but then their valour was the effect of an emulation to excel the Pagan troops: for when the emperors became Christians, this emulous spirit died away; and, as soon as the cross had chased the eagle from the field of glory, the valour of the Romans was no more.

But, leaving these political considerations, let us return to the subject of right; and lay down some fixed principles on that important point.

The right which the social compact gives the sovereign over the subjects, extends no further than is necessary for the general good*: no sovereign can there-

* *In a republic, says Mr. d'A. each person is perfectly at liberty to do whatever does not injure others. That is the invariable boundary; and it is impossible to fix it with greater precision. I cannot deny myself the*

therefore have a right to controul the opinions of the subjects any further than as these opinions may affect the community.

It is of consequence to the state, that each of its citizens should be of such a religion as will dispose him to perform his duties : but the dogmas of that religion interest neither the state, or the members of the state ; except as far as they affect morality, and those duties which the professor of it is required to discharge towards others. Every individual may, while he does not suffer his religious tenets to lead him into any action, or any omission, which may be

the pleasure of quoting this manuscript sometimes, though it is unknown to the public, because I think it does honour to an illustrious and respectable man ; who, even in the ministry, preserved the heart of a faithful citizen, and just and wholesome ideas of the government of his country.

injurious

injurious to others, entertain what opinions he pleases, without being controuled in them by the sovereign; who, having no jurisdiction in the other world, has no concern with the situation of men in a future life, provided they are good citizens in the present one.

There is however a profession of faith merely civil, the articles of which it is the business of the sovereign to arrange; not precisely as dogmas of religion, but as sentiments conducive to the well being of society; and without which, it is impossible to be either a good citizen, or a faithful subject*.

The

* When Cæsar was pleading the cause of Catiline, he endeavoured to establish the dogma of the mortality of the soul. Cato, and Cicero, in the arguments they employed to confute him, did not reason as philosophers; but contented themselves with shewing, that Cæsar spoke like a bad citizen, and
advanced

The sovereign has no power by which he can oblige men to believe the articles of faith which are thus laid down : but the unbeliever may be banished the state ; not as an impious person, but as one unfit for that society ; because incapable, from his principles, of being sincerely attached to equity and the laws ; or of sacrificing, if occasion should require it, his life to his duty as a citizen. But if any one, after he has subscribed to these dogmas, shall conduct himself as if he did not believe them, he may be punished with death : for he has committed the greatest of all crimes, he has lyed in the face of the law.

The articles of the civil creed must be advanced a doctrine pernicious to the state. They acted very properly in doing so, because it was in that light that the Roman Senate was to judge the point, and not as a theological question.

simple,

simple, few in number, precisely fixed, and free from either explanations, or comment. The points insisted on must be, a belief in one God, powerful, wise, and benevolent; who beholds all, and provides for all; an expectation of a future life, where the just will be rewarded, and the wicked punished; and a firm confidence in the sanctity of the social contract, and the laws. The renunciations of this creed I would confine to one single object—I mean intolerance, whose spirit is only congenial to the religions I would exclude.

Those who make a distinction between civil and religious intolerance, are certainly, in my opinion, mistaken: they must be inseparable; for it is impossible to live in amity with those whom we believe devoted to damnation: to love them, would be to insult that God who has marked them for the objects of his wrath. We should either reclaim or punish them.

Religious intolerance is admitted every where, and it is impossible for it not to produce some civil effect*: as soon as it has

* Marriage, for instance, is a civil contract, and produces civil effects, without which it would be impossible for society to subsist. Supposing that the clergy of one religion only were to arrogate to themselves the exclusive right of performing the marriage ceremony; a right which the established clergy must necessarily usurp, where toleration is not allowed: is it not then clear, that, in making the authority of the church more profitable to churchmen, they injure that of the prince, the number of whose subjects is likely to be lessened by the measure? for the priest who can marry, or refuse marrying people, according as they shall, or shall not, profess such and such articles of faith; or in consideration of their admitting, or rejecting, such or such forms; or as they shall be more or less devoted to him; may, by an artful and steady conduct, dispose of all the inheritances in the nation; of the public employments; of the citizens; and even of the state itself; which could not subsist, if by his management it should be peopled with none but bastards.

has produced it, the sovereign ceases to be such, even in temporal concerns; for the priests are from that time so absolutely masters, that kings themselves are nothing more than their officers.

Now that there neither is, or can be any more, an exclusive national religion, all religions ought to be tolerated whose tenets discover nothing contradictory to the duties of a citizen; but those who dare to say, *Out of the church, out of salva-*

bastards. But, say the favourers of the church, the injured parties can appeal, in consequence of this abuse: and the priest may be summoned, judged, and deprived of his livings. What a pity! that the clergy, with the little share they have, I will not say of courage, but of good sense, should submit to such proceedings against them, should suffer themselves calmly to be, in consequence of an appeal, summoned, judged, and deprived of their benefices, and, at last, defeat the whole process, by shewing themselves masters. This is, however, no great sacrifice, to yield a little, when they are sure at last of carrying all before them.

tion, should be driven from the state, unless that state is the church, and the prince the pontiff. Such a dogma is only suited to a religious government; in all others it must be exceedingly pernicious. The very reason which it is said made Henry the Fourth embrace the Romish religion, is the one which should make all honest men renounce it; and particularly all princes, who are capable of reasoning as they ought to do.

C H A P. .IX.

Conclusion.

AFTER having established the true principles of political right; and endeavoured to found a state on that basis, it remains to support it by external relations: this comprehends the rights of people, and of commerce; the right of war,

war, and of conquests ; the public right ;
leagues, negociations, treaties, &c. But
all this forms a new object too vast for my
circumscribed view, which I ought al-
ways to have confined within a narrower
circle.

F I N I S.

8 JU 65

